North Dakota Taxation

An Overview of Major State and Local Taxes in North Dakota

Office of State Tax Commissioner

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An Overview of Major State and Local Taxes in North Dakota

Purpose of this document

This document provides an introduction to the major state and local taxes in North Dakota. It includes an overview of their historical development, structure, tax rate(s), and other notable features.

Taxes covered

- Individual income tax
  Presented by Joseph Becker, Research Specialist, Research & Education Section
- Corporation income tax
  Presented by Mary Loftsgard, Associate Director, Tax Administration
- Financial institution tax
  Presented by Mary Loftsgard, Associate Director, Tax Administration
- Sales & use taxes
  Presented by Myles Vosberg, Director, Tax Administration
- Cigarette & tobacco taxes
  Presented by Myles Vosberg, Director, Tax Administration
- Liquor taxes
  Presented by Myles Vosberg, Director, Tax Administration
- Property tax
  Presented by Marcy Dickerson, State Supervisor of Assessments and Director of Property Tax
- Coal taxes
  Presented by Marcy Dickerson, State Supervisor, Property Tax
- Oil & gas taxes
  Presented by Kevin Schatz, Supervisor, Motor Fuel, Oil and Gas, and Estate Taxes
- Fuel taxes
  Presented by Kevin Schatz, Supervisor, Motor Fuel, Oil and Gas, and Estate Taxes

Taxes not covered

- State unemployment tax
  Job Service North Dakota
- Workers compensation tax
  Workforce Safety & Insurance
- Gaming taxes
  Attorney General
- Insurance premium tax
  Insurance Department
- Other taxes not listed under "Taxes covered"

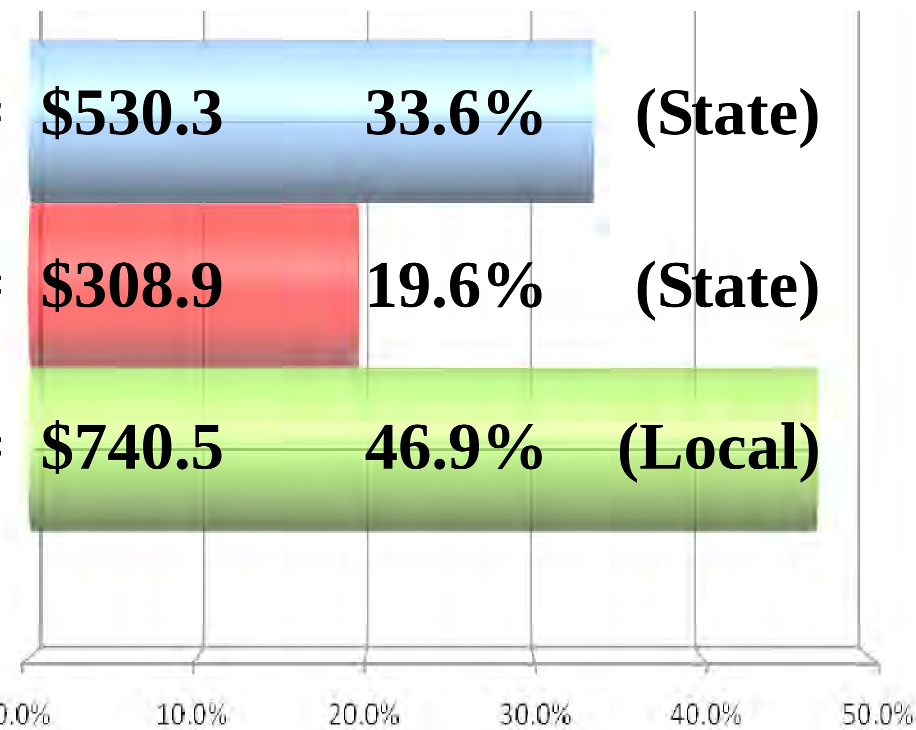
Contents

North Dakota Tax System

North Dakota's Tax System
is Like a 3-Legged Stool

FY 2008 Collections
(in Millions $)

1. **Sales/Use Taxes = $530.3 33.6% (State)**
2. **Income Taxes = $308.9 19.6% (State)**
3. **Property Taxes = $740.5 46.9% (Local)**



Did you know that ...

- **The North Dakota Tax Department administers 35 tax types**
- **The Tax Department is the primary revenue collecting agency for the State of North Dakota.**
- **The Tax Department collects about 85% of General Fund Revenues excluding transfers (BND & State Mill)**
  - **General Fund tax revenue collected by the Tax Department = over $1.975 Billion**
  - **Total General Fund revenues = $2.317 Billion (2005-07 Biennium)**
    - **Includes transfers**

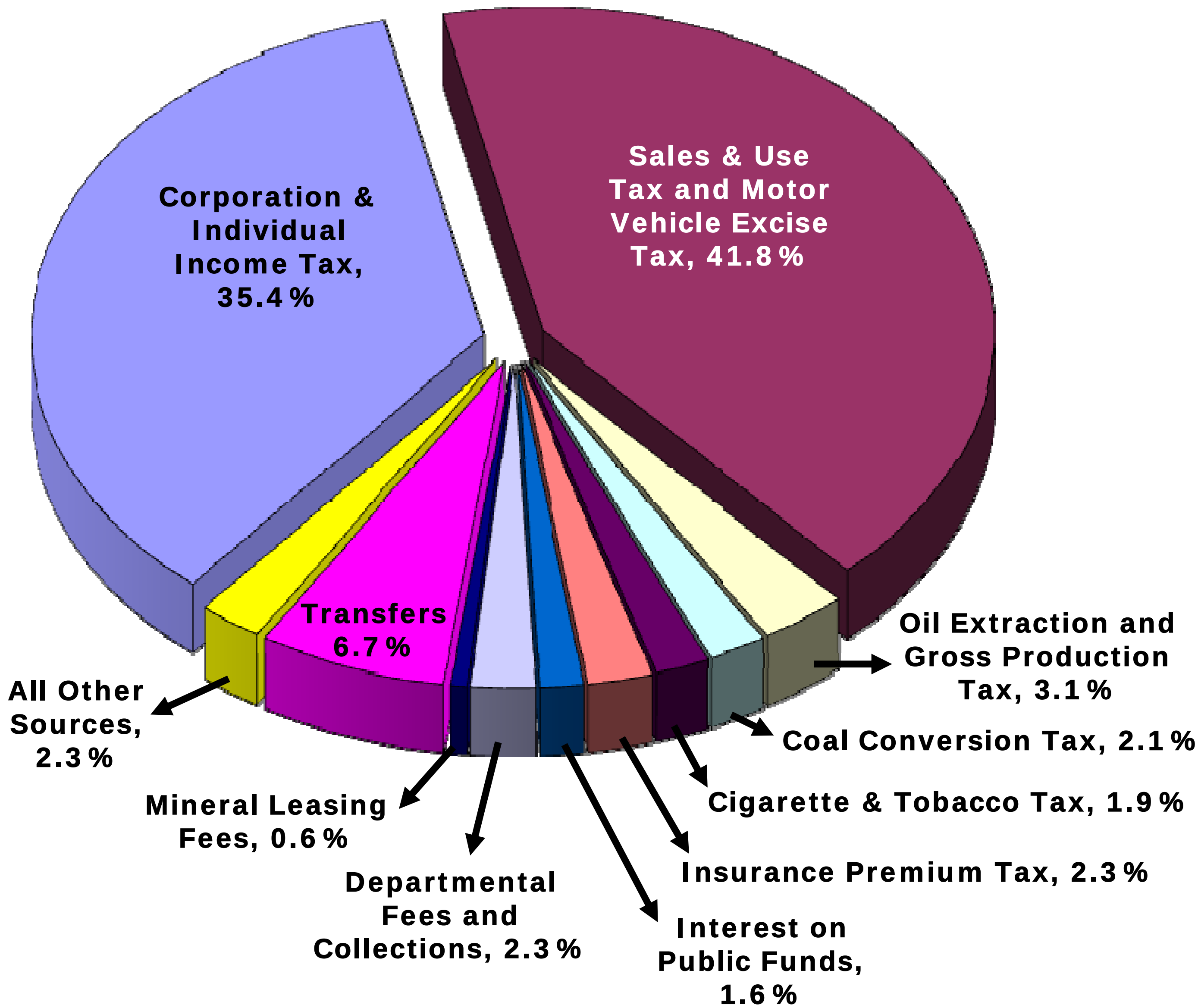
Collections of Major Revenue Categories 2005-07 Biennium

Tax Type	FY06*	FY07*	Total*
Sales & Use	495.6	486	981.6
Ind. Income	274.6	318.4	593
Corp. Income	111.8	120	231.8
Oil	166.2	186	352.2
Coal	39.8	40.9	80.7
Motor Fuel	134.1	140	274.1
Other	148	158.5	306.5
Total Net	**1,370.1**	**1,449.8**	**2,819.9**

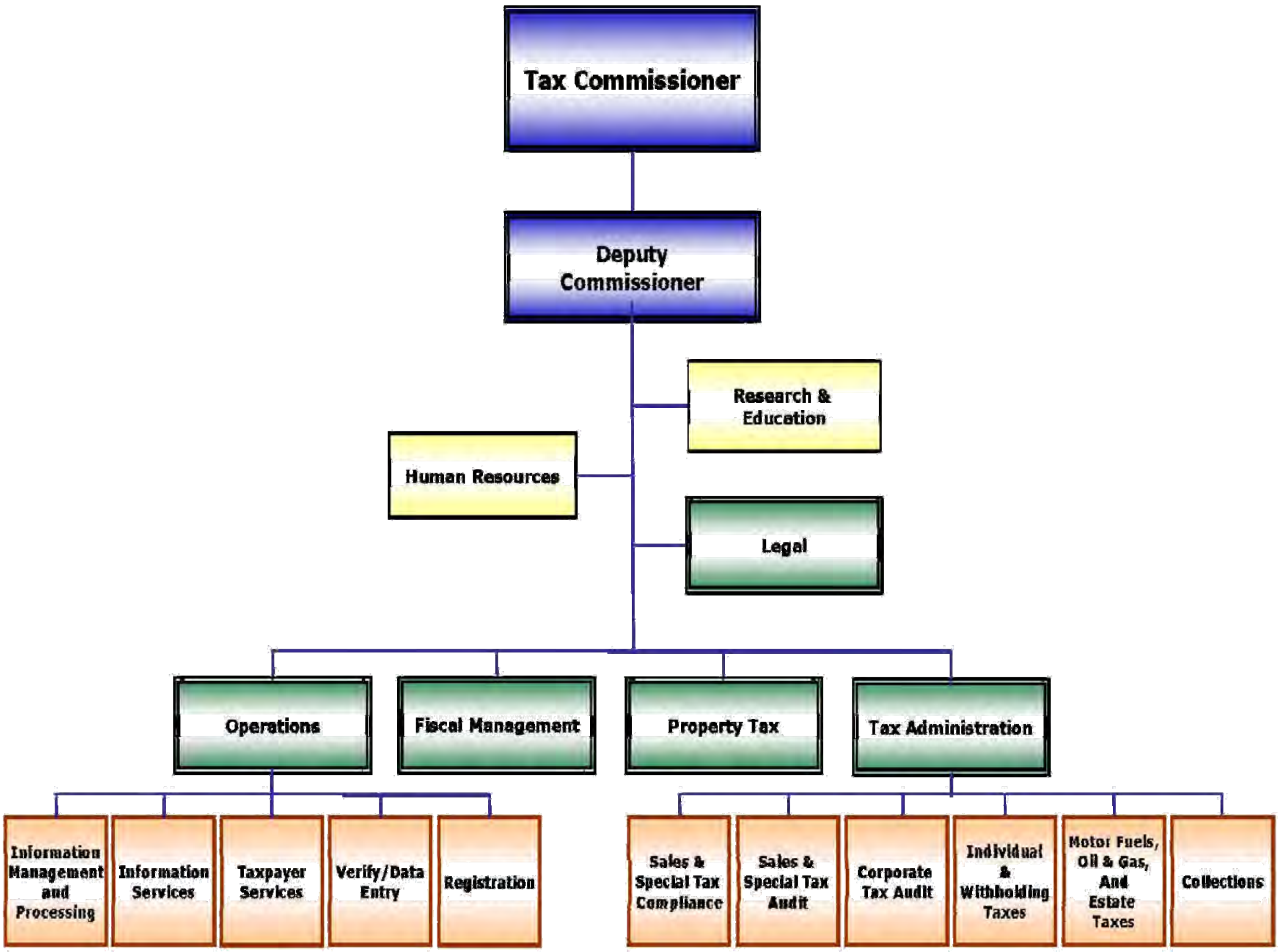
*** In $ millions**

General Fund Revenue Sources 2005-07 Biennium

Total $2.317 Billion



Tax Department Organizational Chart



Individual (personal) income tax

A. Historical perspective

1919: Enacted North Dakota's first income tax law
- 1913 federal income tax return—**see facsimile at the end of TAB 1**
- 1919 return—**see facsimile at the end of TAB 1**
- Standalone system that taxed earned and unearned income at different tax rates

1923: Replaced law with a new one patterned after federal income tax law, but still essentially a standalone system

1959: Another major step toward "federalization" was made when the federal definition of "net income" was adopted, streamlining the income and deduction area of the law, but leaving many differences between federal and state income tax law

1967: Year of significant change
- Adopted ***federal taxable income*** as starting point in calculating individual income tax (subject to "federalization" date, which had to be reviewed every legislative session)
- Federal income tax allowed as a deduction on individual income tax return

1981: North Dakota individual income tax drops into the cellar with creation of a new simplified "optional" method of calculating the individual income tax combined with a significantly lower tax rate

[Backdrop to these changes: An oil boom in ND began in the mid-1970s, and in 1980 an initiated measure created the 6.5% oil extraction tax, significantly increasing revenues to the general fund. An income tax credit, called the Energy Cost Relief Credit, of $100 per return was also part of the initiated measure. This new oil revenue was to balance out the reduced individual income tax revenues.]

- North Dakota is the only state with two individual income tax systems
- Taxpayers may choose the system that produces the lowest tax
- New system
  - Form 37-S (the "short form")—**see facsimile at the end of TAB 1**
  - New tax base: federal income tax liability (before credits)
  - New tax rate: flat rate of 7.5%
  - $100 energy cost relief credit allowed (per return)
- Old method
  - Form 37 (the "long form")
  - Tax base: federal taxable income +/- state adjustments
  - Tax rates: one set of progressive tax rates for all filing statuses
- **Important:** Although referred to as the "optional" form, the new short form method immediately became the method of choice for over 98% of all filers because of its significantly lower tax rate, ***and that status has not changed to date***.

Individual (personal) income tax

1983: Climb out of individual income tax cellar begins

[Backdrop to these changes: While the ND oil boom that began in the mid-1970s was still on an upward climb going into 1983 (and reached its peak in 1984), oil prices began dropping, reducing oil tax revenues.]

- ▶ Increased flat tax rate on short form from 7.5% to 10.5% (with corresponding percentage increase to long form tax rates)
- ▶ Repealed $100 energy cost relief credit

1986: December Special Session

- ▶ Increased flat tax rate on short form from 10.5% to 14% (with corresponding percentage increase to long form tax rates)
- ▶ Enacted general income tax withholding law
- ▶ Enacted estimated income tax payment requirement
- ▶ Referral to override 1986 Special Session changes fails

1987: Enacted 10% surtax for 1987 only (effective tax rate of 15.4% on Form 37-S)

1989: Attempt to increase individual income tax rates is unsuccessful

- ▶ An increase in the flat tax rate on the short form from 14% to 17% (with corresponding percentage increase to long form tax rates) is overridden by successful referral
- ▶ Changed law to automatically recognize all federal income tax law changes affecting North Dakota's federalized tax statutes ("perpetual federalization")
  - ▷ Subject to any exceptions enacted by state legislature
  - ▷ Primary impact: Federal taxable income starting point

2001: Overhauled short form system to avoid significant revenue reduction due to anticipated 2001 federal income tax rate cut legislation

- ▶ Form 37-S renamed Form ND-1
  - ▷ Tax base change: federal taxable income
  - ▷ Tax rate change: progressive set of tax rates (based on 14% of 2000 federal income tax rate brackets)
  - ▷ Overall revenue neutrality maintained
- ▶ Form 37 renamed Form ND-2: Old system retained

B. Resident vs. nonresident taxation

1. Resident
   a. ***All income*** is subject to North Dakota income tax ***regardless of its source***
   b. Credit for income tax paid to another state

2. Nonresident
   a. ***Income sourced in North Dakota*** is subject to North Dakota income tax
   b. North Dakota source income—
      - Compensation for work performed in North Dakota
      - Income from tangible property located in North Dakota
      - Income from a business operated in North Dakota

   c. Income ***not*** taxable by North Dakota—

- Interest, dividends, and other income derived from intangible property, such as stocks and bonds
- Income exempted under a reciprocal arrangement with another state
  - Minnesota—limited to compensation for personal or professional services
  - Montana—limited to wages subject to income tax withholding

C. Federal preemption—income NOT subject to state income because of federal law

1. Residents and nonresidents
   a. Interest from U.S. obligations
   b. Benefits paid by U.S. Railroad Retirement Board
2. Nonresidents only
   a. Wages of interstate commerce company employees
   b. Income from pension, IRA, 401(k), or other retirement plan
   c. Income of Native American living and working on an Indian reservation
   d. Military compensation

D. Structure and calculation (2008 tax year)

1. Form ND-1 system—**see CHART 1**
2. Form ND-2 system—**see CHART 2**
3. Comparison of tax rate structures on Form ND-1 and Form ND-2—**see CHART 3**
4. Comparison of deductions allowed on Form ND-1 and Form ND-2—**see CHART 4**
5. Comparison of tax credits allowed on Form ND-1 and Form ND-2—**see CHART 5**
6. Form ND-1 and instructions
7. Form ND-2 and instructions

E. Questions

Individual income tax

Form ND-1 System (Main Method)

2008 tax year

Federal taxable income

plus

Addition adjustments

minus

Subtraction adjustments

equals

ND taxable income

multiplied by

Tax rates

equals

Tax

Continued on page 2

NOTE Items in **RED** are unique to Form ND-1 system (2008 tax year)

Additions
1 Qualified plan lump-sum distribution (federal 10-year averaging used)
2 Loss from ND financial institution that is a passthrough entity
3 ND planned gift or endowment tax credit contribution

Subtractions
1 Interest from U.S. obligations
2 Exempt income of a Native American
3 Benefits from the U.S. Railroad Retirement Board
4 Income from ND financial institution that is a passthrough entity
5 National Guard or reserve member exclusion for federal active duty
6 ND College SAVE deduction (IRC section 529 plan)
7 Income exempted under ND Renaissance Zone Act
8 Income exempted under new or expanding business income exemption
9 Human organ donor expense deduction ($10,000 limit)
10 Workforce recruitment income exclusion (for employee)
11 30% North Dakota net long-term capital gain
12 Nonresident military compensation

2008 tax rates—see **CHART 5** for comparison with Form ND-2 tax rates
— 5 tax rates: 2.1%, 3.92%, 4.34%, 5.04%, 5.54%
— 5 income brackets: Each tax rate corresponds with an income bracket, and the income brackets differ based on filing status, i.e., single, head of household, married filing jointly/qualifying widow(er), and married filing separately (see **CHART 5** for all of the brackets by filing status)
— 3-year farm income averaging

Nonresident: The tax for a nonresident is determined by multiplying the tax by a ratio equal to North Dakota source income divided by total income (from all sources).

Individual income tax

Form ND-1 System (Main Method)

2008 tax year

Tax

minus

Tax credits

equals

Net ND tax liability

minus

Payments

equals

Tax due or Refund

NOTE Items in **RED** are unique to Form ND-1 system (2008 tax year)

Tax credits
1 Credit for income tax paid to another state (resident only)
2 Family member care credit
3 Renaissance fund organization investment credit
4 Renaissance zone historic property credit
5 Renaissance zone single-family residence credit
6 Seed capital investment credit
7 Agricultural commodity processing facility investment credit
8 Planned gift credit
9 Biodiesel fuel blending credit (supplier/wholesale)
10 Biodiesel equipment credit (seller/retail)
11 Employer internship program credit
12 Microbusiness credit
13 Research expense credit
14 Angel fund investment credit
15 Endowment fund credit from passthrough entity
16 Workforce recruitment credit
17 Residential/agricultural property tax credit
18 Commercial property tax credit
19 Marriage penalty credit

Payments
— ND income tax withheld from wages
— Estimated individual income tax

Individual income tax

Form ND-2 System (Optional Method)

2008 tax year

Federal taxable income

plus

Addition adjustments

minus

Subtraction adjustments

equals

ND taxable income

Continued on page 2

NOTE Items in **RED** are unique to Form ND-2 system (2008 tax year)

Additions

1 Qualified plan lump-sum distribution (federal 10-year averaging used)
2 Loss from ND financial institution that is a passthrough entity
3 ND planned gift or endowment tax credit contribution
4 Interest from non-North Dakota state and local obligations
5 State and local income taxes deducted on federal income tax return

Subtractions

1 Interest from U.S. obligations
2 Exempt income of a Native American
3 Benefits from the U.S. Railroad Retirement Board
4 Income from ND financial institution that is a passthrough entity
5 National Guard or reserve member exclusion for federal active duty
6 ND College SAVE deduction (IRC section 529 plan)
7 Income exempted under ND Renaissance Zone Act
8 Income exempted under new or expanding business income exemption
9 Human organ donor expense deduction ($10,000 limit)
10 Workforce recruitment income exclusion (for employee)
11 Interest from bank, savings & loan, or similar institution ($300/$600 limit)
12 Medical expenses exceeding federal 7.5% of AGI threshold
13 Federal income tax (after credits)
14 U.S. armed forces active duty exclusion ($1,000 limit)
15 U.S. armed forces active duty exclusion for overseas duty ($3.600 limit)
16 Federal civil service retirement pay exclusion ($5,000 limit)
17 ND highway patrol retirement exclusion ($5,000 limit)
18 ND firefighter or police retirement exclusion ($5,000 limit)
19 Gain from sale of land to "beginning farmer"
20 Interest from sale of land to "beginning farmer" under contract for deed
21 Net rental income for lease of land to "beginning farmer" ($25,000 limit)
22 Gain from involuntary conversion of property due to eminent domain
23 Gain attributable to increase in value of stock of corporation that relocates to North Dakota
24 State and local income tax refund reported on federal return
25 $1,750 deduction for adopting child under age 21 *(year of adoption)*
26 Up to $1,000 of cost to adopt child under age 21 who is blind or physically disabled under Social Security Act *(year of adoption)*
27 $750 for a child under age 21 who is blind or physically disabled under Social Security Act *(allowed each year)*
28 $300 deduction for filing status head of household, married filing jointly, and qualifying widow(er)

Nonresident: Only reports the portion of this amount that is attributed to North Dakota sources.

Individual income tax

Form ND-2 System (Optional Method)

2008 tax year

ND taxable income

multiplied by

Tax rates

equals

Tax

minus

Tax credits

equals

Net ND tax liability

minus

Payments

equals

Tax due or Refund

NOTE Items in **RED** are unique to Form ND-2 system (2008 tax year)

2008 tax rates—see **CHART 5** for comparison with Form ND-1 tax rates

ND taxable income: Over	But not over	Tax equals:			
$ 0	$ 3,000			2.67%	of ND taxable income
3,000	5,000	$ 80.10	+	4.00%	of the amount over $ 3,000
5,000	8,000	160.10	+	5.33%	of the amount over 5,000
8,000	15,000	320.00	+	6.67%	of the amount over 8,000
15,000	25,000	786.90	+	8.00%	of the amount over 15,000
25,000	35,000	1,586.90	+	9.33%	of the amount over 25,000
35,000	50,000	2,519.90	+	10.67%	of the amount over 35,000
50,000		4,120.40	+	12.00%	of the amount over 50,000

Tax credits

1. Credit for income tax paid to another state (resident only)
2. Family member care credit
3. Renaissance fund organization investment credit
4. Renaissance zone historic property credit
5. Renaissance zone single-family residence credit
6. Seed capital investment credit
7. Agricultural commodity processing facility investment credit
8. Planned gift credit
9. Biodiesel fuel blending credit (supplier/wholesale)
10. Biodiesel equipment credit (seller/retail)
11. Employer internship program credit
12. Microbusiness credit
13. Research expense credit
14. Angel fund investment credit
15. Endowment fund credit from passthrough entity
16. Workforce recruitment credit
17. Residential/agricultural property tax credit
18. Commercial property tax credit
19. Nonprofit private high school contribution credit
20. Nonprofit private college contribution credit
21. Biomass, geothermal, solar, or wind energy device credit
22. Credit for employing developmentally disabled or chronically mentally ill person
23. Certified nonprofit development corporation investment credit
24. Long-term care insurance policy premium credit

Payments

— ND income tax withheld from wages
— Estimated individual income tax

Individual income tax

List of tax deductions

2008 tax year

- *The terms "deduction," "exemption," and "exclusion" are interchangeable and mean that the item reduces North Dakota taxable income.*
- *For each item in the list, an "X" in a column on the right side indicates the system under which the item is allowed by law.*

		Form ND-1 Main Method	Form ND-2 Optional Method
1	30% North Dakota net long-term capital gain exclusion	X	
2	Nonresident military compensation exemption (federal law)	X	
3	Interest from U.S. obligations exemption (federal law)	X	X
4	Native American income exemption (federal law)	X	X
5	U.S. Railroad Retirement Board benefit exemption (federal law)	X	X
6	Exclusion for income from passthrough entity subject to ND financial institution tax	X	X
7	National Guard/Reserve member federal active duty income exclusion	X	X
8	ND College SAVE account deduction (up to $10,000)	X	X
9	Renaissance zone income exemption	X	X
10	New or expanding business income exemption	X	X
11	Human organ donor expense deduction (up to $10,000)	X	X
12	Workforce recruitment income exclusion (for employee)	X	X
13	$300 deduction if married filing jointly, head of household, or qualifying widower		X
14	Bank interest deduction (up to $300)		X
15	Medical expense deduction (amount exceeding federal 7.5% of AGI threshold)		X
16	Federal income tax (after credits)		X
17	U.S. armed forces active duty pay exclusion (up to $1,000)		X
18	U.S. armed forces overseas active duty pay exclusion (up to $300 per month)		X
19	U.S. armed forces retirement pay exclusion (up to $5,000)		X
20	Federal civil service retirement pay exclusion (up to $5,000)		X
21	ND city firefighter relief association pay exclusion (up to $5,000)		X
22	ND city police officer retirement pay exclusion (up to $5,000)		X
23	ND highway patrol officer retirement pay exclusion (up to $5,000)		X
24	Deduction of interest from contract for deed for sale of farmland to "beginning farmer"		X
25	Deduction of rental income for lease of farmland to "beginning farmer" (up to $25,000)		X
26	Deduction if gain from sale of farmland to "beginning farmer"		X
27	Exemption of gain from involuntary conversion of property due to eminent domain		X
28	Exclusion of gain from sale of stock in a corporation that relocates to ND		X
29	Deduction of $1,750 for adopting a child under age 21 (year of adoption)		X
30	Deduction of up to $1,000 for cost of adopting a child under age 21 who is mentally retarded, blind or disabled under Social Security Act (year of adoption)		X
31	Deduction of $750 for an adopted child under age 21 who is mentally retarded, blind or disabled under Social Security Act (annual)		X
32	Deduction for state and local income tax refund reported on federal return		X

List of tax credits

2008 tax year

- *These items reduce the tax liability on a dollar-for-dollar basis, and therefore are more beneficial than a deduction from income.*
- *For each item in the list, an "X" in a column on the right side indicates the system under which the item is allowed by law.*

		Form ND-1 Main Method	Form ND-2 Optional Method
1	Marriage penalty credit (for spouses filing a joint return)	X	
2	Credit for income tax paid to another state (resident only)	X	X
3	Seed capital investment credit	X	X
4	Agricultural commodity processing facility investment credit	X	X
5	Angel fund investment credit	X	X
6	Renaissance zone program: Investment credit	X	X
7	Renaissance zone program: Single-family residence credit	X	X
8	Renaissance zone program: Historic property credit	X	X
9	Renaissance zone program: Business purchase or expansion credit	X	X
10	Planned gift credit	X	X
11	Endowment fund credit (from passthrough entity)	X	X
12	Workforce recruitment credit (for hard-to-fill position)	X	X
13	Employer internship program credit	X	X
14	Biodiesel fuel blending credit (for supplier/wholesaler)	X	X
15	Biodiesel fuel equipment credit (for seller/retailer)	X	X
16	Microbusiness credit (for increasing employment or purchasing property)	X	X
17	Research expense credit	X	X
18	Family member care credit	X	X
19	Residential and agricultural property tax credit (for 2007 and 2008 only)	X	X
20	Commercial property tax credit (for 2007 and 2008 only)	X	X
21	Long-term care insurance policy premium credit		X
22	Biomass, geothermal, solar, or wind energy device credit		X
23	Nonprofit private high school contribution credit		X
24	Nonprofit private college contribution credit		X
25	Developmentally disabled/chronically mentally ill person employment credit		X
26	Certified nonprofit development corporation investment credit		X

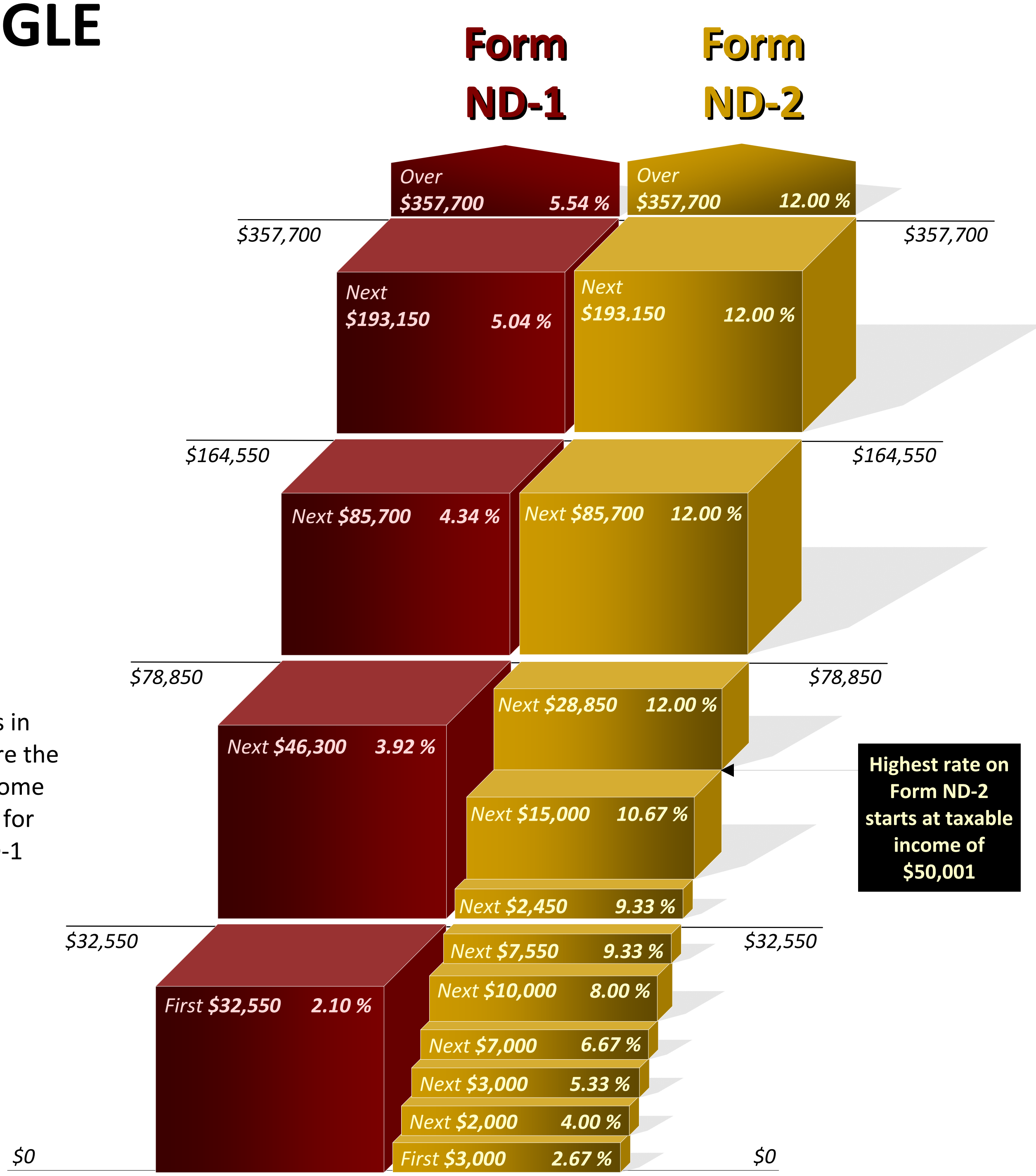
Individual income tax

Comparison of tax rates on Form ND-1 and Form ND-2

2008 tax year

Filing Status—

SINGLE



Numbers in **BLACK** are the 2008 income brackets for Form ND-1

Individual income tax

Comparison of tax rates on Form ND-1 and Form ND-2

2008 tax year

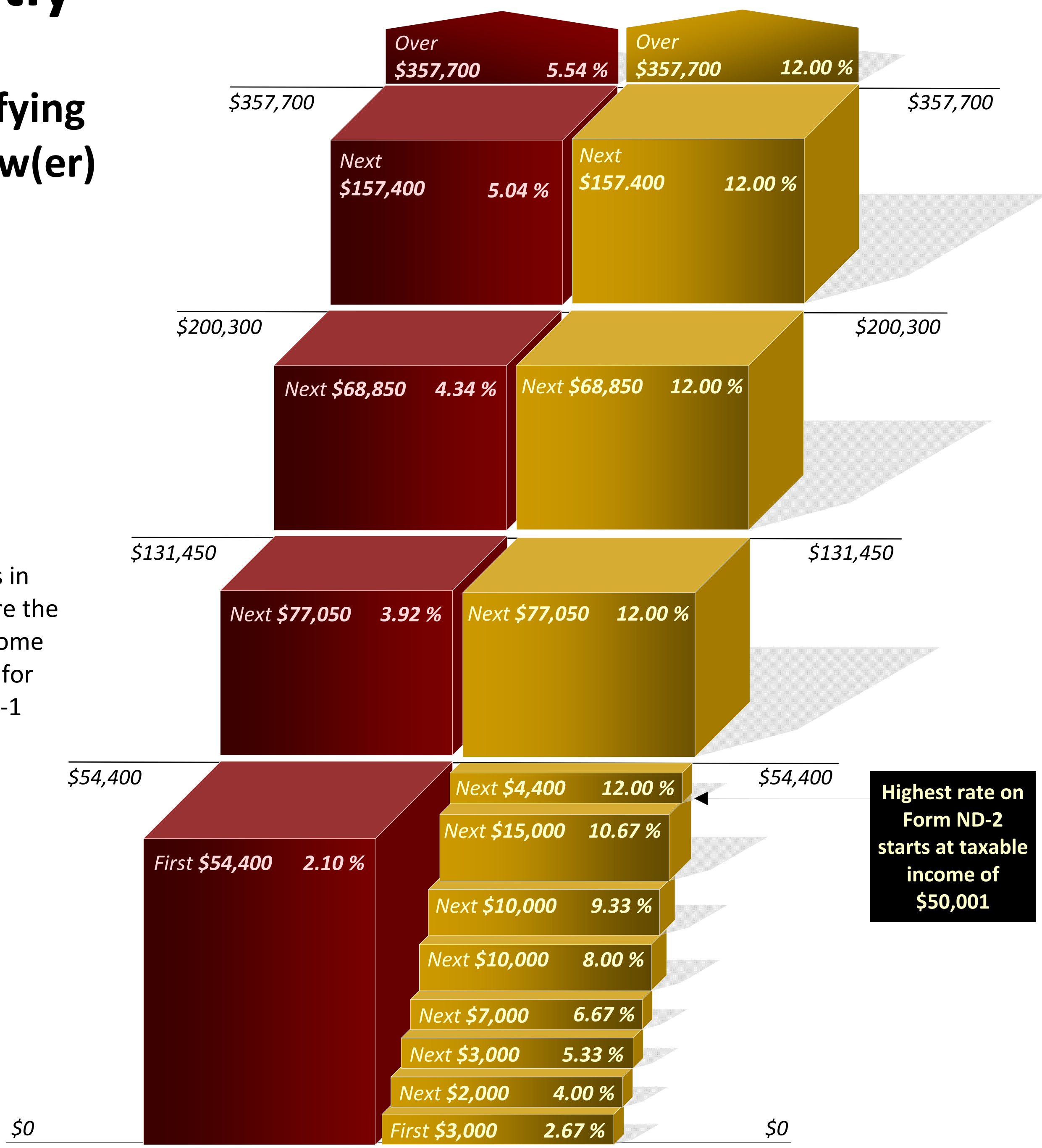
Filing Status—

Married filing jointly

and

Qualifying Widow(er)

Numbers in **BLACK** are the 2008 income brackets for Form ND-1



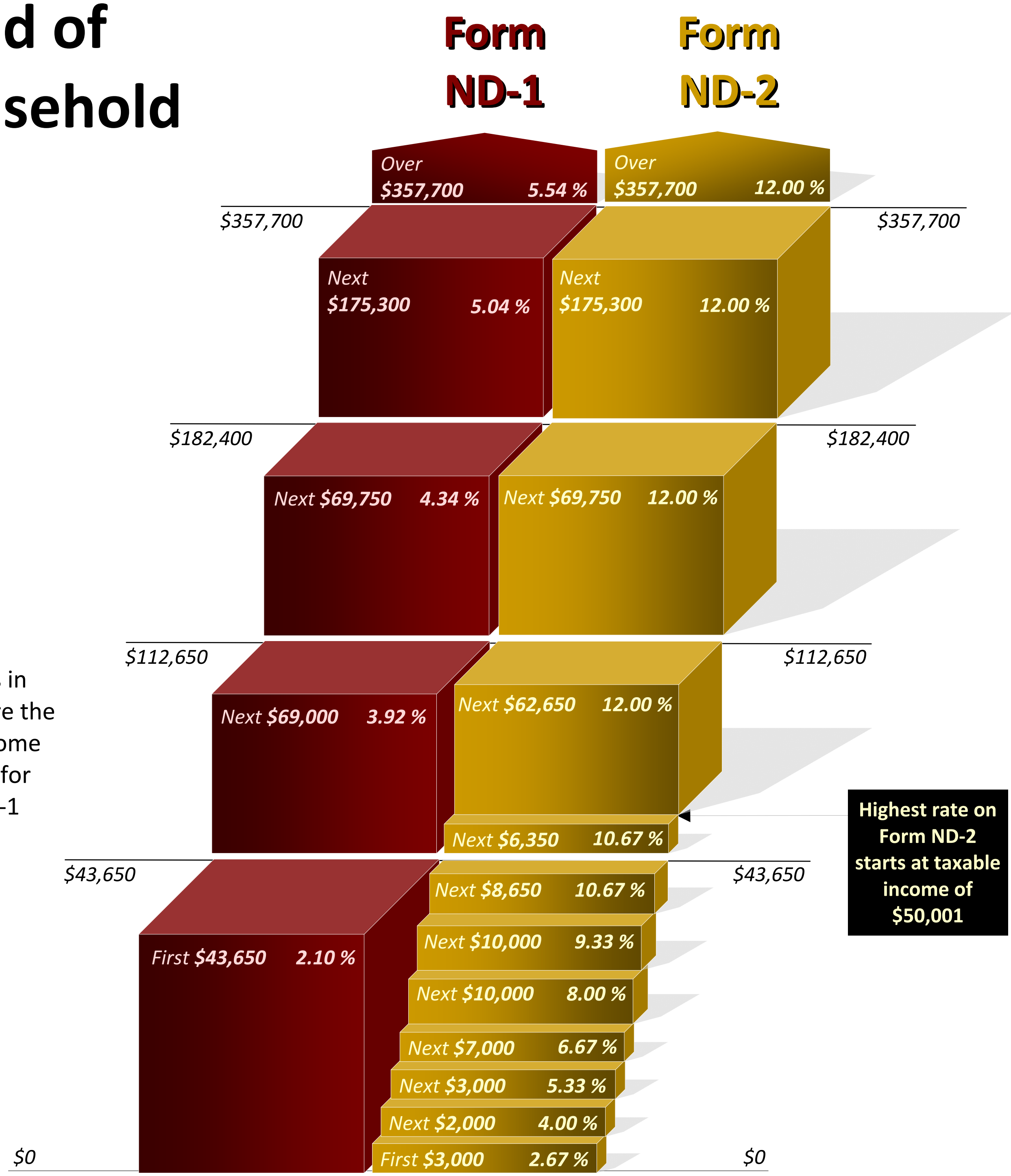
Individual income tax

Comparison of tax rates on Form ND-1 and Form ND-2

2008 tax year

Filing Status—

Head of household



Numbers in **BLACK** are the 2008 income brackets for Form ND-1

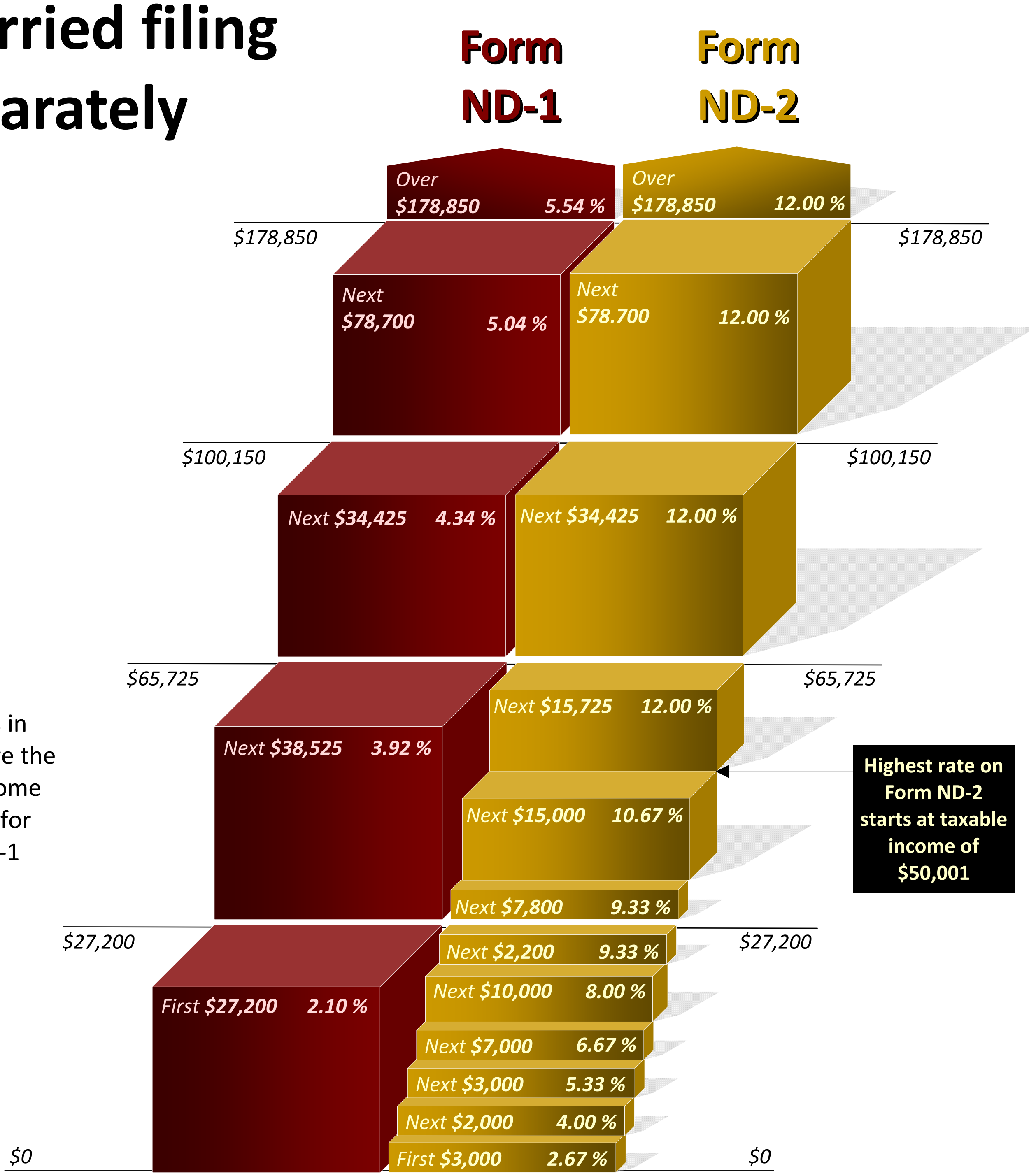
Individual income tax

Comparison of tax rates on Form ND-1 and Form ND-2

2008 tax year

Filing Status—

Married filing separately



Numbers in **BLACK** are the 2008 income brackets for Form ND-1

Corporation taxation

A. Historical perspective

1919: Enacted the first corporation income tax, with a flat rate of 3% on total net income, and an additional 5% tax on net income that remained undistributed six months after the end of the year.

1923: The 5% tax on undistributed net income was eliminated, leaving only the 3% flat rate of tax on net income.

1937: A graduated income rate structure was created. A graduated rate structure has continued to the present day, although rates and tax brackets have changed throughout the years—**see CHART 1.**

1965: The Uniform Division of Income for Tax Purposes Act was adopted as North Dakota Century Code Chapter 57-38.1. Under this act, the worldwide combined reporting method was adopted. The act also indicates how income of multistate businesses is assigned to the states.

1967: As with individual income tax, adopted federal taxable income as the starting point in calculating North Dakota taxable income. This adoption had to be reviewed each legislative session.

1987: Corporations were allowed to elect the water's edge method of reporting income for tax years beginning after December 31, 1998. The election was binding for 10 years, and was later reduced to 5 years.

1989: Use of federal taxable income as the starting point for calculating North Dakota taxable income was perpetually federalized, meaning there was no longer a requirement to review this each legislative session.

2003:
- The deduction for federal income taxes paid was eliminated for tax years beginning after December 31, 2003.
- Corporations electing the water's edge filing method became subject to a 3.5% surtax on North Dakota taxable income for tax years beginning after December 31, 2003.
- North Dakota net operating losses for tax years beginning after December 31, 2002 could no longer be carried back to prior years. The losses can only be carried forward.

2007: The first saleable income tax credits were authorized. Under certain circumstances, corporations are allowed to sell unused research and experimental expenditure credits and credits for the installation of biomass, geothermal, solar or wind energy devices.

B. Corporation taxation

1. Nexus
   a. Defined—Nexus is the "connection" with a state that is required before income taxes may be imposed on a business entity.

b. Establishing nexus when there are only sales into North Dakota—Federal law (Public Law 86-272) prohibits a state from imposing an income tax on an entity whose only in-state activity consists of soliciting orders for the sales of tangible personal property, when the orders are sent outside the state for approval and are filled by shipment or delivery from outside the state.
   - Protected ancillary activity—Numerous activities considered ancillary to solicitation are allowed without subjecting a business to income tax. Some examples of such ancillary activities are salespersons carrying samples, checking display racks or inventory, training other employees.
   - Unprotected activities—Some activities are not considered mere solicitation or ancillary to solicitation. If these activities are performed in addition to solicitation, a state would not be prohibited from taxing the North Dakota business income. Some examples of unprotected activity are installing or repairing equipment that was sold, investigating credit worthiness and resolving complaints.

2. Apportionable Income Tax Base—**see CHART 2**
   a. For companies incorporated in the United States, begin with Federal taxable income (FTI)
   b. For companies not incorporated in the United States, include income from informational returns filed with the IRS
   c. Make addition and subtraction adjustments as required by law.

3. Apportionment—North Dakota taxable income is the portion of a corporation's apportionable income which is attributable to business activity in North Dakota.
   a. History –In 1965, North Dakota adopted the Uniform Division of Income for Tax Purposes Act (UDITPA)as North Dakota Century Code Chapter 57-38.1.
   b. Nonapportioning—For a corporation or unitary group of corporations that conduct business activity solely in North Dakota, 100% of their taxable income will be subject to North Dakota's tax rates.
   c. Apportioning—Corporations which conduct business in multiple states and/or countries apportion their income amongst those jurisdictions. North Dakota uses an equally weighted, three factor formula to apportion income—**see CHART 2**.
      - Special apportionment rules exist for railroads, airlines, trucking companies, television and radio broadcast companies and publishing companies.

4. Filing methods
   a. Separate entity—no affiliated corporations (parent or subsidiary)
      - 100% ND—the company's entire apportionable income will be taxed by North Dakota.
      - Multistate apportioning—the company's apportionable income will be multiplied by its North Dakota apportionment factor to determine what portion of the income will be taxed by North Dakota.
   b. Unitary combined reporting—**see CHART 3**
      - Worldwide combined report—the unitary companies (both US and foreign incorporated)total their income or loss to establish their apportionable income. The apportionment factor numerators include only the North Dakota property,

payroll and sales, while the denominators include property, payroll and sales everywhere (both US and foreign).
- Water's edge election—the United States incorporated companies, with the exception of 80/20 corporations, total their income or loss to establish the tax base. Unitary foreign incorporated companies are excluded from the water's edge group. The apportionment factor numerators include only the North Dakota property, payroll and sales, while the denominators include property, payroll and sales of all the companies included in the water's edge group.

5. Business/Nonbusiness income
   a. Definitions
      - Business income—income from:
        - transactions and activity in the regular course of the taxpayer's business (transactional test),or
        - income from tangible and intangible property if the acquisition, management and disposition of the property are integral parts of the business (functional test).
      - Nonbusiness income—all income that is not business income.
   b. Business income is apportioned. Nonbusiness income is allocated to a specific state.

6. Structure and calculation
   a. Form 40—**see CHART 2**
      - Combined report—One company that is a member of the unitary group reports using the combined report method.
      - Consolidated return—Multiple companies that are members of the same unitary group report on the same Form 40, using the CR schedules.
   b. Deductions and credits—**see CHART 4**

Financial institution taxation

A. Historical perspective

Pre 1997: Banks, trust companies and building and savings and loan companies were subject to a 7% privilege tax on their net income. 2% of the tax was allocated to State General Fund revenue. The 5% portion of the tax was certified by the Tax Commissioner and paid directly to counties by the entities.

1997: The privilege taxes on banks, trust companies and building and savings and loan companies were repealed and replaced with the financial institutions tax (North Dakota Century Code Chapter 57-35).

B. **Financial institution taxation**

1. Definition—Included in the statutory definition of financial institutions are state and national banks, savings associations, thrifts, bank holding companies, and entities that derive more than 50% of their gross income from finance leases. Insurance companies subject to the gross premiums tax and entities that would be subject to the corporation income tax are not financial institutions.

2. Similarities to Corporation Income Tax
   a. Unitary companies file using a combined report.
   b. Income is either apportioned or allocated.
   c. The apportionable tax base is computed in a similar process—**see CHART 5.**
   d. The North Dakota apportionment factor is an equally weighted three factor formula based on property, payroll and receipts.

3. Differences From Corporation Income Tax
   a. Privilege tax based on income. Minimum tax of $50.
   b. Flat tax rate of 7%. No history of graduated tax rates.
   c. Only 2% of the 7% tax goes to the State General Fund. The remaining 5% is distributed to the counties using percentages established in the 1997 Session. (The percentages are listed in the Red Book.)
   d. The water's edge election is not available.
   e. Consolidated returns (with more than one entity reporting) are not available.
   f. Additional items are included in computing the apportionment property factor, i.e., intangible property such as the value of loans and receivables.

4. Structure and Calculations—**see CHART 5**.

5. Deductions and Credits—**see CHART 6.**

Passthrough entity taxation

1. Passthrough entities include partnerships, limited liability companies treated as partnerships and small business (Subchapter S) corporations.
2. With few exceptions, these business entities do not pay tax at the entity level.
3. The entity income or loss is "passed through" to those who are owners of the entity—i.e., the partners, members or shareholders. The amount passed through is often based on the ownership percentage in the entity.
4. The income/loss passed through will be included by the individual or corporation in their federal taxable income.
5. For multistate passthrough entities, income/loss is also subject to apportionment and/or allocation.
6. North Dakota Tax forms
7. Partnerships—Form 58
8. S corporations—Form 60

History of Corporation Income Tax Brackets and Tax Rates

For taxable years beginning on or after January 1, 2007

North Dakota taxable income —

Over	But not over				
$ 0	$ 3,000		2.60%	of North Dakota taxable income	
3,000	8,000	$ 78.00 +	4.10%	of the amount over	$ 3,000
8,000	20,000	283.00 +	5.60%	of the amount over	8,000
20,000	30,000	955.00 +	6.40%	of the amount over	20,000
30,000		1,595.00 +	6.50%	of the amount over	30,000

Water's edge election surtax: *A corporation electing the water's edge method to apportion its income must pay an additional tax of 3.5% of North Dakota taxable income.*

For taxable years beginning on or after January 1, 2004, and prior to January 1, 2007

North Dakota taxable income —

Over	But not over				
$ 0	$ 3,000		2.60%	of North Dakota taxable income	
3,000	8,000	$ 78.00 +	4.10%	of the amount over	$ 3,000
8,000	20,000	283.00 +	5.60%	of the amount over	8,000
20,000	30,000	955.00 +	6.40%	of the amount over	20,000
30,000		1,595.00 +	7.00%	of the amount over	30,000

Water's edge election surtax: *A corporation electing the water's edge method to apportion its income must pay an additional tax of 3.5% of North Dakota taxable income.*

For taxable years beginning on or after January 1, 1983, and prior to January 1, 2004

North Dakota taxable income —

Over	But not over				
$ 0	$ 3,000		3.00%	of North Dakota taxable income	
3,000	8,000	$ 90.00 +	4.50%	of the amount over	$ 3,000
8,000	20,000	315.00 +	6.00%	of the amount over	8,000
20,000	30,000	1,035.00 +	7.50%	of the amount over	20,000
30,000	50,000	1,785.00 +	9.00%	of the amount over	30,000
50,000		3,585.00 +	10.50%	of the amount over	50,000

For taxable years beginning on or after January 1, 1981, and prior to January 1, 1983

North Dakota taxable income —

Over	But not over				
$ 0	$ 3,000		2.00%	of North Dakota taxable income	
3,000	8,000	$ 60.00 +	3.00%	of the amount over	$ 3,000
8,000	20,000	210.00 +	4.00%	of the amount over	8,000
20,000	30,000	690.00 +	5.00%	of the amount over	20,000
30,000	50,000	1,190.00 +	6.00%	of the amount over	30,000
50,000		2,390.00 +	7.00%	of the amount over	50,000

For taxable years beginning on or after January 1, 1978, and prior to January 1, 1981

North Dakota taxable income —

Over	But not over				
$ 0	$ 3,000		3.00%	of North Dakota taxable income	
3,000	8,000	$ 90.00 +	4.00%	of the amount over	$ 3,000
8,000	15,000	290.00 +	5.00%	of the amount over	8,000
15,000	25,000	640.00 +	6.00%	of the amount over	15,000
25,000		1,240.00 +	8.50%	of the amount over	25,000

For taxable years beginning on or after January 1, 1937, and prior to January 1, 1978

North Dakota taxable income —

Over	But not over				
$ 0	$ 3,000		3.00%	of North Dakota taxable income	
3,000	8,000	$ 90.00 +	4.00%	of the amount over	$ 3,000
8,000	15,000	290.00 +	5.00%	of the amount over	8,000
15,000		640.00 +	6.00%	of the amount over	15,000

For taxable years beginning on or after January 1, 1923, and prior to January 1, 1937

3% of North Dakota taxable income

Corporation income tax

Form 40 System

2008 tax year

Federal taxable income

plus

Addition adjustments

minus

Subtraction adjustments

equals

Apportionable income

multiplied by

Apportionment factor

equals

ND apportioned income

plus

ND allocable income

equals

Total ND income

Continued on page 2

Federal taxable income

This amount may include the federal taxable income (FTI) of more than one entity—

- Nonunitary entity: Includes only its own FTI.
- Unitary entity: Includes the FTI and foreign entities' income of all unitary entities on a worldwide basis or an elective water's edge basis.

Additions

1. Interest from non-North Dakota state and local obligations
2. All income taxes and franchise or privilege taxes based on income deducted on federal income tax return
3. ND endowment tax credit contribution
4. Federal domestic production activity deduction
5. Income and expenses related to unrecognized safe harbor leases—seller/lessee
6. Depreciation on certain 1981 and 1982 assets using federal accelerated cost recovery system (ACRS) depreciation method
7. Dividends-received deduction ("special deductions" on federal return)
8. Federal net operating loss deduction

Subtractions

1. Interest from U.S. obligations
2. Income, franchise, or privilege tax refund, if previously added to ND taxable income
3. Gain from involuntary conversion due to eminent domain
4. Depreciation on certain 1981 and 1982 assets using pre-1981 federal depreciation methods
5. Income and expenses related to unrecognized safe harbor leases—buyer/lessor
6. Dividends paid by RIC based on income subject to ND income tax
7. Interest from ND regional railway authority bonds
8. Net nonbusiness (or "allocable") income from all sources

Apportionment factor is calculated using an equally weighted 3-factor formula—

$$\left[\frac{\text{ND property}}{\text{Total property}} + \frac{\text{ND payroll}}{\text{Total payroll}} + \frac{\text{ND sales}}{\text{Total sales}}\right] \div 3 = \text{Apportionment factor}$$

Note: If there is a unitary group, the denominator of each factor includes the total property, payroll, and sales of all the entities included in the unitary group.

This is the portion of any net nonbusiness (or "allocable") income subtracted from federal taxable income that is allocable to North Dakota.

Corporation income tax

Form 40 System

2008 tax year

Total ND income

minus

Deductions

equals

Net ND income or loss

plus

Income from sale of ND tax credits

equals

ND taxable income

multiplied by

Tax rates

equals

Tax

minus

Tax credits

equals

Net ND tax liability

minus

Estimated tax payment(s)

equals

Tax due or Refund

Deductions

1. New or expanding business income exemption
2. Renaissance zone—Business income exemption
3. North Dakota net operating loss carryforward

This income cannot be offset by a net North Dakota loss—tax must be paid on it.

2008 tax rates

ND taxable income: / **Tax equals:**

Over	But not over	Tax equals:			
$ 0	$ 3,000			2.60% of ND taxable income	
3,000	8,000	$ 78.00	+	4.10% of the amount over	$ 3,000
8,000	20,000	283.00	+	5.60% of the amount over	8,000
20,000	30,000	955.00	+	6.40% of the amount over	20,000
30,000		1,595.00	+	6.50% of the amount over	30,000

Tax

For a unitary corporation electing the water's edge method, the tax equals the regular tax (using above rates) plus an additional tax of 3.5% of ND taxable income.

Tax credits

1. Nonprofit private college contribution credit
2. Nonprofit private high school contribution credit
3. Biomass, geothermal, solar, or wind energy device credit
4. Credit for hiring developmentally disabled or chronically mentally ill person
5. Research and experimental expenditure credit
6. New industry (corporation) credit
7. Certified nonprofit development corporation investment credit
8. Renaissance zone—Renaissance fund organization investment credit
9. Renaissance zone—Historic property credit
10. Biodiesel production equipment credit
11. Seed capital investment credit
12. Biodiesel fuel blending credit (supplier/wholesale)
13. Biodiesel fuel sales equipment credit (seller/retail)
14. Agricultural commodity processing facility investment credit
15. ND endowment fund credit
16. Microbusiness credit
17. Employer internship program credit
18. Angel fund investment credit
19. Workforce recruitment credit
20. Commercial property tax credit

Worldwide and Water's Edge Filing Methods: Background Overview

Historical Overview

1965 North Dakota adopts the Uniform Division of Income Tax Purposes Act (UDITPA) as North Dakota Century Code Chapter 57-38.1

- Under this Act, North Dakota adopts the **worldwide combined reporting method** for unitary groups of corporations.

  Unitary Business

  1. Unity of Operation—contributions to or receipt of benefits from functional integration or economies of scale. *Examples include shared research facilities, reduced cost of goods due to increased purchasing power, common computer system, and intercompany financing or loan guarantees.*
  2. Unity of Ownership—common control by a single corporation. In North Dakota, direct or indirect ownership > 50% would meet this test.
  3. Unity of Use—contributions to or receipt of benefits from centralized management and policy formation. *Examples include common officers and directors, common personnel policies, and common ethics standards.*

  Example: Corporation A owns 100% of Corporations B and C. Corporation A mines copper in State X. Corporation A ships the copper to Corporation B in State Y, where B manufactures copper pipe. Corporation B ships pipe to Corporation C's warehouse in State Z. Corporation C ships the pipe to its retail hardware stores located throughout the United States.

- A **unitary group** of corporations' property, payroll, and sales within North Dakota are compared to the group's worldwide (i.e., United States and foreign) property, payroll, and sales to determine the portion of the group's worldwide income that is taxable to North Dakota.

1983

In response to a U.S. Supreme Court case, [Container Corp of America v. Franchise Tax Board, 463 U.S. 159 (1983)(worldwide combined reporting does not impose an undue burden on foreign commerce)], President Reagan established the Worldwide Unitary Taxation Working Group, which concluded that water's edge unitary apportionment should be applied to all corporations, foreign and domestic.[1]

Under pressure from the Reagan Administration's working group and the introduction of two bills in the 99th Congress in 1985-86 (S. 1974 and H.R. 3980, respectively), the states began to enact water's edge legislation.

[1] The worldwide combined reporting method was again upheld as not burdening foreign commerce in 1994 by the U.S. Supreme Court in Barclays Bank v. Franchise Tax Board, 114 S. Ct. 2268 (1994). This case involved a foreign parent corporation with domestic subsidiaries.

Worldwide and Water's Edge Filing Methods: Background Overview

Historical Overview *continued*

1987 **North Dakota enacts legislation allowing an election to use the water's edge method starting with the 1989 tax year**

- Allows exclusion of most corporate income sourced outside the United States.
- Significant differences from **worldwide combined reporting method**—
  1. 70% of income from an 80/20 corporation is excluded.

     *An "**80/20 corporation**" is an affiliated U.S.-incorporated corporation for which 80% or more of the corporation's property and payroll is assigned outside of the United States.*
  2. Income from a controlled foreign corporation (CFC) is excluded.

     *A "**CFC**" is an affiliated corporation that is incorporated outside the U.S.*
  3. 70% of dividends from a CFC is excluded.
  4. A domestic disclosure spreadsheet must be filed.
  5. The election is binding for 5 consecutive tax years.
  6. A federal income tax deduction is not allowed. This was the trade-off for allowing a corporation to use the water's edge election.
  7. For tax years beginning on or after January 1, 2004, a surtax equal to 3.5% of North Dakota taxable income must be paid in addition to the regular tax.

Statistical Information

- 5 states require worldwide combined reporting by a unitary group of corporations—

Alaska	California	Idaho
Montana	North Dakota	

- 24 states have some method of domestic combination, which includes the 5 states listed above.
- 22 states do not allow combination—they use separate entity filing.
- 4 states do not have a corporation income tax—

Nevada	Washington
South Dakota	Wyoming

List of deductions and credits

2008 tax year

Note: The terms "deduction," "exemption," and "exclusion" are interchangeable and mean that the item reduces ND taxable income.

Deductions (*reduces taxable income*)

1 Interest from U.S. obligations exemption (federal law)

2 Gain from involuntary conversion due to eminent domain

3 Depreciation on certain 1981 and 1982 assets using pre-1981 federal depreciation methods
Note: There is a corresponding addition adjustment to remove the depreciation on these same assets using the federal accelerated cost recovery (ACRS) depreciation method.

4 Income and expenses related to federal safe harbor lease where lessor's minimum investment is not 100%
Note: There is a corresponding addition adjustment.

5 Dividends paid by regulated investment company (RIC) based on income subject to ND income tax

6 Interest from ND regional railway authority bonds

7 Net nonbusiness (or "allocable") income from all sources
Note: There is a corresponding addition adjustment to add back net nonbusiness income allocable to ND.

8 New or expanding business income exemption

9 Renaissance zone—Business income exemption

10 ND net operating loss
Note: There is a corresponding addition adjustment to add back a federal net operating loss deduction.

Credits (*reduces tax*)

1 Nonprofit private college contribution credit

2 Nonprofit private high school contribution credit

3 Biomass, geothermal, solar, or wind energy device credit

4 Developmentally disabled/chronically mentally ill person employment credit

5 Research and experimental expense credit

6 New industry (corporation) credit

7 Certified nonprofit development corporation investment credit

8 Renaissance zone program: Renaissance fund organization (RFO) investment credit

9 Renaissance zone program: Historic property renovation or preservation credit

10 Biodiesel production equipment credit

11 Seed capital investment credit

12 Biodiesel fuel blending credit (for supplier/wholesaler)

13 Biodiesel fuel sales equipment credit (for seller/retailer)

14 Agricultural commodity processing facility investment credit

15 ND endowment fund credit

16 Microbusiness credit (for increasing employment or property)

17 Employer internship program credit

18 Angel fund investment credit

19 Workforce recruitment credit (for hard-to-fill position)

20 Commercial property tax credit (for 2007 and 2008 only)

Financial institution tax *(a business privilege tax based on income)*

Form 35 System

2008 tax year

Federal taxable income

Federal taxable income
This amount may include the federal taxable income (FTI) of more than one entity.

- Nonunitary entity: Includes only its own FTI.
- Unitary entity: Includes the FTI and foreign entities' income of all unitary entities on a worldwide basis.
- ***Water's edge method not allowed.***

plus

Addition adjustments

Additions
1 Interest from state and local obligations (including North Dakota)
2 All taxes based on income deducted on federal return
3 Charitable contributions deducted on federal return
4 Bad debt reserve amount deducted on federal return, if it was computed under I.R.C. § 585 (Bldg & loan or S & L only)
5 Dividends from federal reserve bank exempt from federal tax
6 Dividends-received deduction ("special deductions" on federal return)
7 Federal net operating loss deduction

minus

Subtraction adjustments

Subtractions
1 Bad debt reserve deduction computed under I.R.C. § 166, if deduction on federal return was computed under I.R.C. § 585 (Bldg & loan or S & L only)
2 I.R.C. § 593(g) adjustment on federal return (due to repeal of pre-'96 bad debt reserve method)
3 Expenses related to federally-exempt income, if the federally-exempt income is a required addition adjustment to ND taxable income
4 Wages not deductible on federal return because they are the basis for certain federal employment tax credits
5 Federal charitable contribution deduction on federal return, recomputed to base federal limitation on ND apportionable income (instead of FTI)
6 Net nonbusiness (or "allocable") income from all sources
7 Other income in federal taxable income that is exempt from ND tax due to federal or state statutory or constitutional law

equals

Apportionable income

multiplied by

Apportionment factor

Apportionment factor is calculated using an equally weighted 3-factor formula—

$$\left[\frac{\text{ND property}}{\text{Total property}} + \frac{\text{ND payroll}}{\text{Total payroll}} + \frac{\text{ND receipts}}{\text{Total receipts}}\right] \div 3 = \text{Apportionment factor}$$

Note: If there is a unitary group, the denominator of each factor includes the total property, payroll, and receipts of the entities included in the unitary group.

equals

ND apportioned income

plus

ND allocable income

This is the portion of any net nonbusiness (or "allocable") income subtracted from federal taxable income that is allocable to North Dakota.

equals

Total ND income

Continued on page 2

Financial institution tax *(a business privilege tax based on income)*

Form 35 System

2008 tax year

Total ND income

minus

Deductions

Deductions
1 Federal income tax deduction
2 Amount of federal alternative minimum tax not previously allowed as a deduction, to the extent of a federal credit for prior year minimum tax claimed on the federal return (Note: These amounts must relate to ND taxable income.)
3 Renaissance zone—Business income exemption
4 North Dakota net operating loss carryforward

equals

ND taxable income

multiplied by

Tax rate

2008 tax rate—7%

equals

Tax

Minimum tax—$50.00; cannot be reduced by any tax credits.

minus

Tax credits

Tax credits (allowed against total tax before distribution)
1 Renaissance zone—Renaissance fund organization investment credit
2 Renaissance zone—Historic property credit

equals

Net tax liability
(Minimum $50.00)

split between

Financial Institution Distribution Fund

5/7 of net tax liability
(Minimum $36.00)

- Payment due January 15 of 2nd year following tax year
- State distributes to counties using formula set by law

State General Fund

2/7 of net tax liability

Payment due April 15
following end of tax year

minus

Tax credits

Tax credits (allowed against state general fund tax after distribution)
1 Nonprofit private college contribution credit
2 Nonprofit private high school contribution credit
3 Rural Leadership ND Scholarship Tuition Program contribution credit

equals

Net General Fund tax liability
(Minimum $14.00)

minus

Prepaid tax

equals

Tax due or Refund

Financial institution tax *(a business privilege tax based on income)*

List of deductions and credits

2008 tax year

Note: The terms "deduction," "exemption," and "exclusion" are interchangeable and mean that the item reduces ND taxable income.

Deductions

	— the following deductions reduce federal taxable income before computing ND apportioned income
1	Bad debt reserve deduction computed under I.R.C. § 166, if deduction on federal return was computed under I.R.C. § 585 *Notes: (1) Only applies to building & loan and savings & loan association.* *(2) If applicable, there is a corresponding addition adjustment for the I.R.C. § 585 deduction on federal return.*
2	I.R.C. § 593(g) adjustment on federal return (due to repeal of pre-'96 bad debt reserve method)
3	Expenses related to federally-exempt income, if the federally-exempt income is a required addition adjustment to ND taxable income
4	Wages not deductible on federal return because they are the basis for certain federal employment tax credits
5	Federal charitable contribution deduction on federal return, recomputed to base federal limitation on ND apportionable income (instead of FTI) *Note: There is a corresponding addition adjustment for the charitable contribution deduction on federal return.*
6	Net nonbusiness (or "allocable") income from all sources *Note: There is a corresponding addition adjustment to add back net nonbusiness income allocable to ND.*
7	Other income included in federal taxable income exempted from ND tax under federal or ND statutory or constitutional law
	— the following deductions reduce ND apportioned income
8	Federal income tax deduction
9	Amount of federal alternative minimum tax not previously allowed as a deduction, to the extent of a federal credit for prior year minimum tax claimed on the federal return *(Note: These amounts must relate to ND taxable income.)*
10	Renaissance zone—Business income exemption
11	ND net operating loss carryforward *Note: There is a corresponding addition adjustment to add back a federal net operating loss deduction.*

Credits

	— the following credits reduce the total tax computed at 7%
1	Renaissance zone program: Renaissance fund organization (RFO) investment credit
2	Renaissance zone program: Historic property renovation or preservation credit
	— the following credits only reduce the state general fund portion of the tax
3	Nonprofit private college contribution credit
4	Nonprofit private high school contribution credit
5	Rural Leadership ND Scholarship Tuition Program contribution credit

Sales and use tax

A. Historical perspective

1935: First general sales tax enacted at rate of 2 percent. Tax base consisted of sales to consumers of personal property; sales or service of gas, electricity, water and communications; and sales of tickets to places of amusement.

1939: A 2 percent use tax was enacted.

1965: Referred Measure. Sales tax was referred and disapproved. From July 1, 1965 to April 1, 1967 use tax was collected in place of sales tax.

1967: New sales and use tax laws enacted at a rate of 3 percent. Also removed motor vehicles from sales tax base and enacted a separate 3 percent motor vehicle excise tax.

1977: Authorized home rule cities to contract with Tax Commissioner to collect city sales and use taxes.

1981: Authorized cities to impose a 2 percent city lodging tax.

1983: Removed aircraft from sales tax base and enacted a separate 4 percent motor vehicle excise tax.

1985: Authorized home rule counties to contract with Tax Commissioner to collect city sales and use taxes.

1987: Authorized cities to impose a 1 percent city lodging and restaurant tax. Approved allocation of a portion of the sales tax collections to the State Aid Distribution fund, which is distributed to cities and counties.

2001: Changed the method of imposing tax on motor vehicle rentals from paying tax on the lessor's purchase price to paying tax on the total lease consideration

2003: Adopted changes needed to become compliant with the Streamlined Sales Tax Agreement and become a member state January 1, 2006.

2005: Finalized changes required to become member of the Streamlined Sales Tax Agreement and moved effective date forward to October 1, 2005. Authorized cities to impose a 1 percent city motor vehicle rental tax.

B. Sales tax vs. Use tax:

1. Sales tax is a tax collected on the selling price of a taxable good or service when the purchaser receives the good or service in the same taxing jurisdiction where the retailer is located. The retailer collects the tax from the purchaser and remits it to the taxing authority.
2. Use tax is complimentary to a sales tax and has two main components. First, use tax is imposed when a retailer delivers a taxable good or service to the purchaser in a taxing jurisdiction other than where the retailer is located. Secondly, a use tax is imposed on a purchaser of goods that was not charged sales tax at the time of purchase or that purchased taxable goods in one taxing jurisdiction and brought those goods into a another taxing jurisdiction where the tax rate is greater than where the goods were

purchased. Purchasers are required to self-report transactions and remit tax where use tax is due and not collected by the seller. Generally, when use tax is paid, credit is given for tax paid to another taxing jurisdiction.

3. Types of Taxes:
   - Sales and use taxes – 5%
   - Motor vehicle excise taxes – 5%
   - Aircraft excise taxes – 5%
   - Gross receipts taxes
     - Alcoholic beverages – 7%
     - Farm machinery – 3%
   - Local option taxes
     - City and county sales, use and gross receipts taxes
     - City lodging taxes
     - City restaurant and lodging taxes
     - City motor vehicle rental tax

C. North Dakota tax base

1. Sales of tangible personal property are subject to sales tax unless specifically exempted by the law. Sales of prewritten computer software, including software delivered electronically, are subject to sales tax. Sales include lease or rental.

2. Sales of services are exempt from tax unless tax is specifically imposed by the law. Taxable services include intrastate communications, furnishing steam, admissions to places of amusement or entertainment, rental of hotel and motel accommodations, coin operated amusement.

3. The point of taxation is where the purchaser takes possession of property or has first use of services. Retailers that have a physical presence in North Dakota are required to collect North Dakota's state and local sales and use taxes. The most common types of a physical presence that require a retailer to collect North Dakota's use tax include retail stores within the state, real estate or personal property located in the state, and employees or agent's traveling in the state.
   - 1967 National Bellas Hess V. Illinois
   - 1972 Supreme Court decision in Quill Corp. v. North Dakota

4. Companies that provide services are the final users of tangible personal property they purchase and use to provide the service. As final users, service providers must pay tax on all purchases of taxable goods and services.
   - Construction contractors
   - Communications providers
   - Professional service providers

D. Sales and use tax exemptions:

1. Exemptions fall into three general categories (see section **G. Exemptions**)
   - Entity
   - Product
   - Use

Sales and use taxes

E. Retailer responsibilities

1. Retailers making sales are required to register for a sales and use tax permit, collect tax on sales of taxable goods and services, file sales and use tax returns, and remit tax to Tax Commissioner. Returns may be filed as follows:
   - Monthly, quarterly, semi-annual, annual – filing frequency determined by Tax Commissioner's Office
   - Monthly compensation
     - $333,000 taxable sales or purchases
     - 1½ percent of tax up to $85 a month
     - Required to file monthly returns
   - File paper returns or electronically over Internet

F. Streamlined sales and use tax agreement:

1. Joint effort by state and local governments, tax practitioners, business community, and trade associations to simplify administration of sales and use taxes in exchange for voluntary collection of tax by retailers not required to collect tax. In areas where simplification is not possible, the agreement attempts to create uniformity. The agreement also makes use of technology where ever possible to lessen the burdens of state and local tax collection.

2. Major provisions of the Streamlined Sales and Use Tax Agreement include:
   - Central registration system
   - Simplified electronic sales tax returns
   - Create Certified Service Providers and Certified Automated Systems
   - Standardized database that identifies state and local tax rates
   - Standardized database that identifies tax jurisdiction for each nine digit zip code
   - Uniform treatment of due dates
   - One general sales tax rate per state and per local jurisdiction
     - Allows second rate for food and drugs
   - Uniform exemption certificate and process to claim exemption
   - Common definitions
     - Sales price, prewritten computer software, prepared food, soft drinks, candy, durable medical equipment, mobility enhancing equipment, prosthetic device, drugs
   - Eliminates caps and thresholds
   - Common state and local tax base in state
   - Local taxes must be administered by the State

3. North Dakota's compliance with agreement.
   - 2001 Session authorized North Dakota's participation
   - Legislative changes to sales and use tax laws in each session (2003 – 2007)
   - Agreement continues to evolve and progress requiring additional legislation
   - North Dakota full member state beginning October 1, 2005
     - Currently 19 full-member states
       - AR, IN, IA, KS, KY, MI, MN, NE, NV, NJ, NC, ND, OK, RI, SD, VT WA, WV, WY
     - Three associate member states – OH, TN, UT

- In compliance with most of agreement provisions or have already passed legislation with a future effective date
- Five states do not impose sales and use taxes – AK, DE, MT, NH, OR

4. Federal legislation to require all retailers to collect sales and use tax in SST member states
   - Invalidate Quill vs. North Dakota in SST member states
   - Small business exemption for collection
     - Seller and affiliates with taxable remote sales nationwide exceeding $5 million
     - Seller and affiliates exceed $5 million threshold but individual seller has less than $100,000 in taxable remote sales
   - Generate revenue for member states
     - Collections from SST registrants in North Dakota from Oct 1, 2005 through Sep 30, 2008
       - $3.18 million all registrants
       - $2.12 million from voluntary registrants
       - 1,000 + registrations

G. Exemptions

1. Entities or individuals
   - Federal, state, and local governments
   - Federal corporations (Farm Credit Services Corp, Federal Deposit Insurance Corp, Commodity Credit Corp, federal home loan banks, American National Red Cross, federal credit unions)
   - Public and private nonprofit schools (elementary, secondary and higher ed)
   - Hospitals, nursing homes, basic and intermediate care facilities, assisted living facilities
   - Nonprofit medical research institute recognized by IRS as exempt under 26 USC 501(c)(3)
   - Emergency medical services providers
   - Nonprofit voluntary health associations
   - Montana residents
   - Canadian residents (refund)

2. Products
   - Groceries (not prepared food, candy or soft drinks)
   - Water
   - Electricity
   - Coal and beneficiated coal
   - Natural gas (effective July 1, 2009)
   - Durable medical equipment
   - Prosthetic devices
   - Mobility enhancing equipment
   - Prescription drugs
   - Insulin sold under direction of a physician and related treatment, testing , and injection equipment and supplies
   - Diabetic supplies, bladder dysfunction supplies, and ostomy devices and supplies

- Newsprint and ink for newspapers
- Newspapers
- Magazine subscriptions (not over the counter sales)
- Flight simulators and associated mechanical or electronic equipment
- Used mobile homes
- Products subject to another special tax (ex: motor vehicles, aircraft, motor fuels)
- Money and precious metal bullion that is .999 pure

3. Use or conditional
   - Products purchased for resale or for processing into a product for resale
   - Lease or rental of tangible personal property if the lessor paid tax on original purchase of property
   - Sale of textbooks to regularly enrolled students of a private or public school
   - Prepared meals sold under a boarding contract with a college or university
   - Sales to nonprofit organization for meals and containers to deliver meals to persons confined to their homes by illness or incapacity
   - Air carrier transportation property subject to ad valorem property tax
   - Agricultural byproducts used to generate steam or electricity
   - Commercial fertilizer, fungicides, herbicides and insecticides for agricultural use
   - Used farm machinery and farm machinery repair parts for agricultural use
   - Feed used for livestock and poultry
   - Seed and plants for agricultural crops
   - Sales (excluding retailers) when net proceeds are used for educational, religious, or charitable purpose
   - Admissions to performance by nonprofit music or dramatic arts organization that is organized and operated for the presentation of live public performances
   - Admissions to a state, county, district or local fair
   - Admissions to or sales made at annual church supper or bazaar
   - Rental of hotel or motel rooms or mobile homes for residential housing of more than thirty consecutive days
   - Lease or rental of motion picture rental when the film is exhibited and admission is charged
   - Bibles, hymnals, and prayerbooks purchased by religious organizations
   - Oxygen for medical use
   - Sales to Native Americans when goods are delivered onto reservation
   - Casual sales (disposal of goods purchased for own use)
   - Raffle prizes purchased by charitable organization when prize winner will be liable for tax
   - Lottery tickets, bingo cards, and receipts from charitable gaming
   - Tangible personal property purchased by a commerce authority and made part of the authority’s infrastructure
   - Carbon dioxide used for enhanced recovery of oil or natural gas
   - Hydrogen to power an internal combustion engine or fuel cell and equipment used directly in production and storage of hydrogen
   - Equipment purchased by licensed fuel seller to sell diesel fuel containing at least two percent biodiesel fuel

Sales and use taxes

- Machinery and equipment purchased to build or expand a manufacturing facility and used directly in manufacturing
- Machinery and equipment purchased to build or expand a recycling facility and used directly in recycling
- Tangible personal property purchased to build or expand an agricultural commodity processing facility
- Computer and telecommunications equipment that is an integral part of a new or expanding primary sector business that is not a manufacturer or recycler
- Tangible personal property and production equipment used to construct a power plant
- Environmental upgrade equipment used in a power plant or processing unit (oil or gas plant)
- Tangible personal property used to build or expand a gas gathering or compressing facility or a gas processing plant
- Tangible personal property used to construct or expand an oil refinery

Motor vehicle excise tax
Aircraft excise tax

Motor Vehicle Excise Tax

1. Any motor vehicle purchased or acquired for use on the streets and highways of North Dakota is subject to 5 percent motor vehicle excise tax if the vehicle is required to be registered in North Dakota.
2. When a vehicle is purchased, the taxable value is the purchase price less any trade-in amount. The taxable value of a vehicle is the fair market value if the vehicle was not purchased or if the vehicle was purchased for a nominal value.
3. When a vehicle weighing less than 10,000 pounds is leased for at least one year, the taxable value is the total of the consideration that will be paid under the lease agreement. For leased vehicles weighing more than 10,000 pounds or leased for less than one year, the taxable value is the purchase price paid by the lessor.
4. Motor vehicle excise tax is due at the time a vehicle is registered and is collected by the Department of Transportation. Motor vehicle excise tax is due each time vehicle ownership changes and the vehicle is required to be registered. All tax is deposited into the state general fund and the state aid distribution fund.

Aircraft Excise Tax

1. All aircraft registered in North Dakota is subject to aircraft excise tax. Aircraft designed exclusively for aerial applications of agricultural fertilizers, pesticides and other agricultural materials are subject to a tax rate of 3 percent. All other aircraft registered in North Dakota are subject to a 5 percent tax rate.
2. Tax is due on the aircraft purchase price, or on the fair market value if the aircraft was not purchased or was purchased for a nominal value. If an aircraft if purchased for lease or rental, the aircraft excise tax may be paid on the purchase price or on the lease or rental price.
3. Aircraft excise tax is paid to the Director of Aeronautics when the aircraft is purchased and registered. Revenue from the tax is deposited in the Aeronautics Commission Special Fund.

Cigarette and tobacco taxes
Liquor and beer taxes

1. For all of these products, tax is imposed at wholesale level. The wholesaler reports and remits the tax monthly on the products it sold or purchased. Microbrew pubs and domestic wineries also report and remit tax on the products they produce and sell directly to consumers. Microbrew pubs and domestic wineries may make retail sales or may sell to wholesalers for distribution, but are not allowed to wholesale products themselves.
2. Tax rates for cigarettes and tobacco products:
   - Cigarettes - 44¢ per pack of 20 cigarettes
   - Pipe tobacco and cigars – 28% of wholesale purchase price
   - Snuff - 60¢ per ounce
   - Chewing tobacco - 16¢ per ounce
3. Cigarette and tobacco wholesalers and retailers must obtain a license from the North Dakota Attorney General's Office. Wholesalers report sales of cigarette and tobacco products monthly and remit the applicable tax with the return. In addition, retailers that purchase untaxed cigarette or tobacco products from a wholesaler that is not registered in North Dakota must also file monthly cigarette and tobacco returns and remit all tax due.
4. The State of North Dakota has entered into an agreement with the Standing Rock Sioux Tribe for administration of the tribe's cigarette and tobacco taxes, which apply to all sales made on the reservation. The tax imposed by the Standing Rock Sioux Tribe mirrors the state tax law. Under the terms of the agreement, tax revenue from sales made on the reservation is allocated between the state and the tribe based on the percentage of population on the reservation that is enrolled members of the tribe. Currently, 75 percent of the revenue goes to the tribe and 25 percent to the state general fund. The state general fund also receives 3 percent of the tribe's share of revenue for administering the tax on behalf of the tribe.
5. All of the tobacco tax revenue is transferred to the state general fund. For the cigarette tax revenue, 3 cents per pack of twenty cigarettes is allocated to cities based on population and the remaining 41 cents is transferred to the state general fund.
6. Tax rates for liquor and beer products:
   - Beer in bulk containers - 8¢ per wine gallon
   - Beer in bottles and cans - 16¢ per wine gallon
   - Wine (less than 17% alcohol) – 50¢ per wine gallon
   - Wine (17 to 24% alcohol) – 60¢ per wine gallon
   - Sparkling wine - $1.00 per wine gallon
   - Distilled spirits - $2.50 per wine gallon
   - Alcohol - $4.05 per wine gallon

7. Suppliers, wholesalers, microbrew pubs, domestic wineries and direct shippers must all obtain a license from the Tax Commissioner's Office. Suppliers who sell alcoholic beverages to a wholesaler licensed in North Dakota for purposes of resale must report all sales made to North Dakota wholesalers, but do not remit tax. Licensed wholesalers, microbrew pubs, domestic wineries and direct shippers report all sales and remit tax to the Tax Commissioner.
8. All revenue from liquor and beer products is placed in the state General Fund.

Property tax

A. Types of property

1. Real property
    a. Land
    b. Improvements to land
    c. Mines, minerals, and quarries
    d. Structures and buildings
    e. Machinery and equipment, not including small tools and office equipment, used or intended for use in any process of refining products from oil or gas from the earth but not including such equipment located on leased oil and gas production sites.

2. Personal property
    a. All property that is not included within the definition of real property
    b. Not subject to property tax in North Dakota, with exceptions (see B.4. below)

B. Classes of property

1. Agricultural – land only
    a. Farm buildings on agricultural land and used as part of a farm plant are exempt
    b. Farm residences may be exempt if the occupant qualifies as a "farmer"

2. Residential – land, buildings, structures

3. Commercial – land, buildings, structures

4. Centrally assessed (by State Board of Equalization)
    a. Railroads (real property only)
    b. Gas companies (real and personal property)
    c. Power companies (real and personal property)
    d. Pipeline companies – intercounty (real and personal property)
    e. Air transportation companies (real property only)
    f. Telecommunications companies
        ► Constitution requires assessment by State Board of Equalization
        ► Subject to gross receipts tax in lieu of property tax, levied by State Board of Equalization

C. Valuation formula

1. True and full value
    a. Agricultural value of agricultural land
    b. Market value of all other property

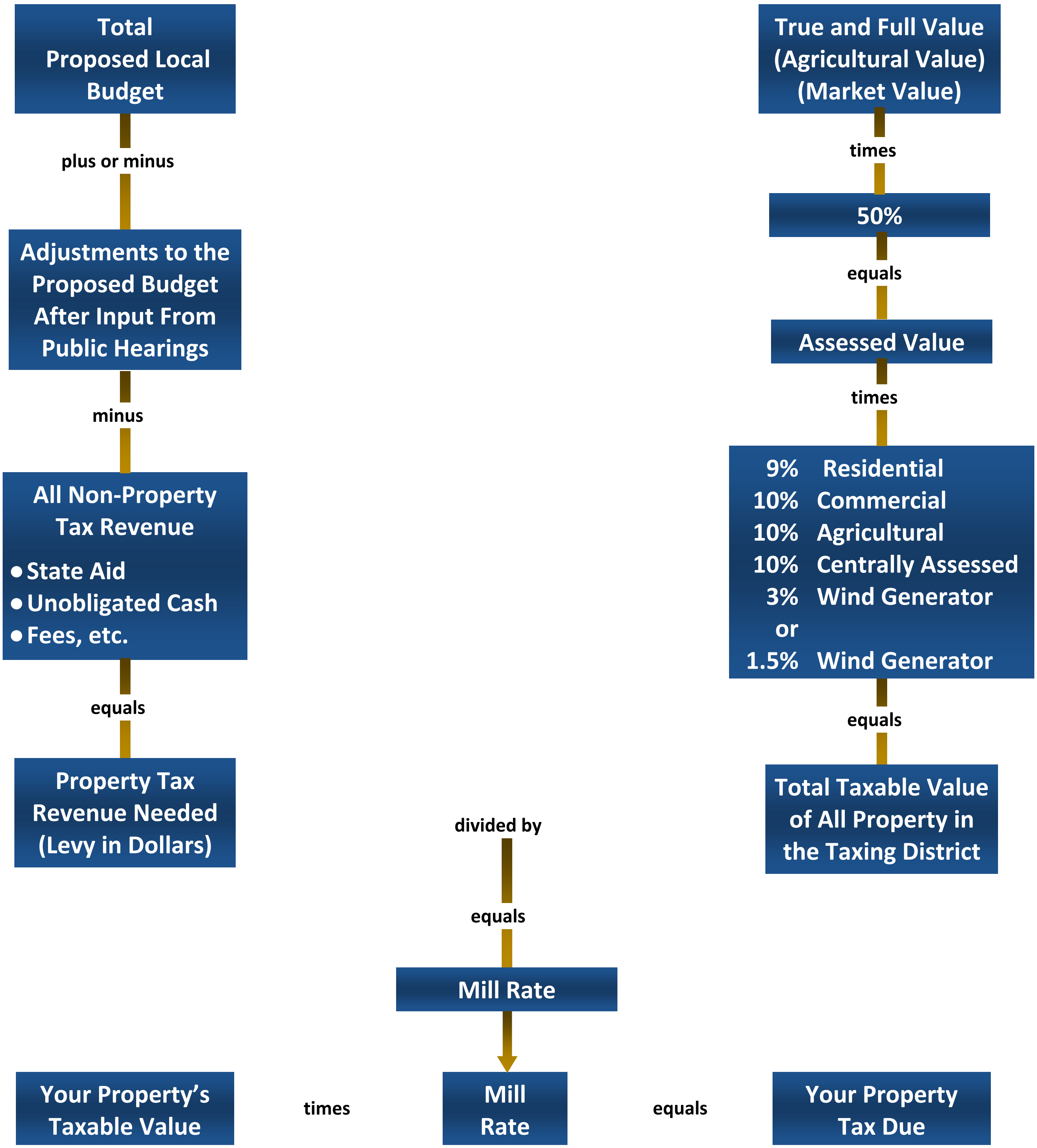
2. Assessed value = 50% of true and full value

3. Taxable value:

a. Agricultural land:	10% of assessed value
b. Residential property:	9% of assessed value
c. Commercial property:	10% of assessed value
d. Wind generators:	3% of assessed value (applies to two wind farms) 1.5% of assessed value (applies to all other wind farms)

D. North Dakota property tax system—see next page

North Dakota Property Tax System



E. Agricultural land assessment

1. True and full value is land's agricultural value
   a. Defined as the "capitalized average annual gross return" except for inundated land
   b. Represents landowner's share of gross returns per acre from agricultural land
2. County average agricultural value
   a. Computed annually by Department of Agribusiness and Applied Economics at North Dakota State University (NDSU)
   b. Separate values are calculated for cropland, noncropland, and inundated agricultural land for each county
   c. Average value per acre of all agricultural lands countywide and statewide is also calculated
   d Model uses county's annual crop production and annual regional market prices by crop reporting districts for major crops and summer fallow.
   e. Cropland data includes acres planted and harvested
   f. Noncropland data includes rangeland and pastureland acreage estimates and gross income potential based on animal unit carrying capacity
   g. Most data is obtained from the National Agricultural Statistics Service (NASS), the Natural Resources and Conservation Service (NRCS), and the Farm Service Agency (FSA)
3. Formula
   a. Gross return for cropland is determined by using 20% of the county's annual gross income from sugar beets and potatoes, plus 30% of the county's annual gross income from other crops, plus a share of government payments
   b. Gross return from irrigated cropland is 50% of the dryland rate
   c. Consider the most recent 10 years preceding the current year, eliminate highest and lowest, and average the 8 remaining years
   d. Average gross return is adjusted by a cost of production index
   e. Adjusted average annual gross return per acre is divided by an appropriate capitalization rate to calculate an agricultural value per acre for each county
   f. Capitalization rate may not be less than 8.3%
   g. Annual gross return for noncropland is 25% of the gross annual income potential from livestock
   h. Inundated land means agricultural property containing a minimum of 10 contiguous acres if the value of the inundated land exceeds 10% of average agricultural value of noncropland for the county
      - ► Property must have been inundated for two consecutive growing seasons or more
      - ► Revenue produced by the land from any source in the most recent prior year must have been less than the county average revenue per acre for noncropland calculated by the Department of Agribusiness and Applied Economics at NDSU
   i. Average value per acre for all agricultural land for each county is determined by weighting the average of the three categories by the acreage in each category
4. NDSU provides county average agricultural values to the State Tax Commissioner by December 1 of each year

5. The Tax Commissioner provides the county average agricultural values to the county directors of tax equalization by January 1

6. Directors of tax equalization determine an estimate of the average agricultural value per acre for each township or assessment district
   a. Shall use soil type and soil classification data from detailed and general soil surveys to estimate the average value of each assessment district relative to the county average agricultural value
   b. Before February 1 of each year the county director of tax equalization provides to all assessors of agricultural property in the county a schedule of modifiers, approved by the state supervisor of assessments, that must be used to adjust agricultural assessments within the county

7. Local assessor responsibilities
   a. Estimates the relative agricultural value of each parcel of agricultural land in the assessment district using soil type and soil classification from the detailed or general soil survey
   b. Uses the schedule of approved modifiers to adjust for conditions not documented in the soil surveys
   c. Considers actual use of the property for cropland or noncropland purposes by the owner of the parcel

8. Implementation of soil type and soil classification data required
   a. For any county that has not fully implemented use of soil type and soil classification data from detailed or general soil surveys for any taxable year after 2009, the tax commissioner shall direct the state treasurer to withhold 5 percent of that county's allocation each month from the state aid distribution fund under N.D.C.C. § 57-39.2-26.1 until that county has fully implemented use of soil type or soil classification data from detailed and general soil surveys. The amount withheld from the allocation must be withheld entirely from the portion of the allocation which may be retained by the county and may not reduce allocations to any subdivisions within the county

F. Exempt property

§ 57-02-08 – Subsection:

1. Property owned by the United States

2. Property owned by the State of North Dakota

3. Property belonging to a political subdivision

4. Property of Indians if title is inalienable

5. Burying grounds and cemeteries

6. Property belonging to schools, academies, colleges, or other institutions of learning

7. All houses used exclusively for public worship and dwellings used as a residence of a minister, together with the lots on which they are situated

8. Buildings and land belonging to institutions of public charity

9. Real property up to 2 acres owned by any religious corporation or organization used for religious services or residence of a minister
10. Property of an agricultural fair association
11. Property owned by lodges, chapters, commanderies, consistories, farmers' clubs, and like organizations, used by them for places of meeting and for conducting their business
12. Repealed
13. All land used as a public park or monument ground belonging to any military organization
14. National Guard armory and land or lots upon which situated
15. All farm structures and improvements located on agricultural lands
    Farm residences must meet additional criteria to qualify for exemption
16. Property of a nonprofit corporation organized under the laws of this state for promoting athletic and educational needs and uses at any state educational institution in this state
17. Moneys and credits, except capital in direct competition with bank stock.

18 and 19. Repealed

20. a. Homestead structures and improvements owned by a paraplegic disabled veteran or veteran who has been awarded specially adapted housing,
    b. Disabled veteran with 50% or greater disability
    c. Permanently and totally disabled person confined to a wheelchair
21. Repealed
22. Structures and improvements owned and occupied as a home by a blind person
23. Structural improvements other than pavement or surfacing used as an automobile parking lot within a city
24. Repealed
25. All personal property except:
    a. personal property of entities, other than railroads, assessed by the state board of equalization
    b. Any property subject to a tax in lieu of ad valorem tax
    c. Any kind of personal property, including mobile homes, that is subjected to a tax pursuant to any other provision of law
26. Structures and improvements owned and occupied as a homestead by a paraplegic disabled person with limited income
27. Equipment designed to provide heating, cooling, or to produce electrical or mechanical power by utilization of solar, wind, or geothermal energy
28. All structures and improvements owned by a cooperative or nonprofit corporation to furnish potable water for uses other than irrigation

29. Property owned by a city and leased to an entity described in subsection 8 or subleased to a public school district for educational purposes
30. Property other than residential owned by an organization described in section 9 and leased to a public school district for educational purposes
31. Group homes
32. Minerals in the earth which at the time of removal are subject to taxes imposed under chapter 57-51 or 57-61.
33. Property used for athletic or recreational activities owned by a political subdivision and leased to a nonprofit corporation organized for the purpose of promoting public athletic or recreational activities
34. Any building on state land used at least in part for academic or research purposes by students and faculty of a state institution of higher learning
35. Up to $75,000 of true and full value of new single-family residential property exclusive of land for two years
36. Up to $75,000 of true and full value of new condominium and townhouse residential property exclusive of land for two years
37. Structures and improvements used for early childhood education or as an adult day care center – not available for property used as a residence
38. A pollution abatement improvement
39. The leasehold interest in state-owned property leased for pasture or grazing purposes or upon which payments in lieu of taxes are made by the state
40. All property including any possessory interest therein relating to any waterworks, mains, and water distribution system leased to the state or private entity, operated by or providing services to a municipality, other political subdivision, or agency of the state, or its citizens
41. All property including any possessory interest therein relating to any sewage systems and facilities for collection, treatment, purification, and disposal in a sanitary manner of sewage leased to the state or private entity, operated by or providing services to a municipality, other political subdivision, or agency of the state, or its citizens
42. All property including any possessory interest therein leased to a private entity pursuant to section 54-01-27, which property is operated by or providing services to the state or it citizens

§ 57-02-08.1

A person 65 years of age or older, or a permanently and totally disabled person, with total income of not more than $17,500 and assets of no more than $50,000 excluding the first $100,000 unencumbered value of the homestead, is eligible for a reduction of the value of the homestead up to a maximum taxable valuation of $3,375, depending on the person's income

§ 57-02-08.7
Leasehold interest in state-owned property if used primarily for tourism or concession purposes

§ 57-02-26(3)
Property owned by the state and held under a lease and any structure, fixture, or improvement located on that property is not taxable to the leaseholder if the structure, fixture, or improvement if used primarily for athletic and educational purposes at any state institution of higher education.

Chapter 57-02.2
Improvements to commercial and residential buildings, maximum of 5 years

§ 57-02-10
Inundated and highway easement lands

§ 15-17-06
Property of an institutional holding association

Ch. 40-57.1
Property tax exemption for new and expanding businesses, maximum of 5 years, except maximum of 10 years if manufacturing a product from agricultural commodities
Exemption up to 10 years available if project operator leases government-owned real property

§ 40-63-05
Exemption up to 5 years for residential or commercial property purchased or rehabilitated as a renaissance zone project.

Property that is exempt and makes payments in lieu of ad valorem taxes (§ 57-02-08(25)(b))

§ 10-06.1-10	Farmland or ranchland owned by certain nonprofit organizations for conservation purposes
§ 37-07.3-04	Land owned by the North Dakota National Guard
§ 40-57.1-03	Structures and improvements of a new or expanding business, in lieu of or in addition to a property tax exemption, up to 20 years
Ch. 57-02.1	Game and fish department land
Ch. 57-02.3	Property owned by the board of university and school lands or the state treasurer
Ch. 57-33	Property of rural electric cooperatives
Ch. 57-33.1	Cooperative-owned transmission lines of 230 kilovolts or larger
Ch. 57-60	Coal conversion facilities
§ 65-02-31	Building and land owned by Workforce Safety and Insurance

Exemption that is not in use:

57-02-08.4	Conditional exemption of wetlands. This exemption is available only if there is money in the fund for reimbursement to the counties. There is no money in the fund, so no exemptions are available under this section.

G. Some frequently used exemptions

1. Property Tax Incentives for New and Expanding Businesses (N.D.C.C. ch. 40-57.1)
   a. Application is made to City governing body or Board of County Commissioners
   b. Exemption applies to buildings and structures only, not land
      - ► Applies to new buildings and existing buildings
      - ► May be granted for up to 100 percent of value for up to 5 years
      - ► May be granted for up to 10 years for a project that produces a product from agricultural commodities
      - ► Project located in a government-owned structure may be granted additional exemptions for the sixth through tenth year upon annual application
      - ► Payments in lieu of taxes may be granted in lieu of or in addition to an exemption for a period not exceeding 20 years from the date of commencement of operations
      - ► Application for exemption must be made and approved prior to commencement of construction of a new building or occupancy of an existing building
      - ► Application for payments in lieu of taxes need not be made and approved prior to commencement of construction of a new building or occupancy of an existing building

2. Exemption of Property Owned by Religious Organizations and Used for Public Worship or for the Residence of the Minister in Charge of Services of the Church (N.D.C.C. § 57-02-08(7) and (9))
   a. Property may not exceed two acres
   b. Includes property used as a parking lot by persons attending religious services

3. Exemption of Property Owned and Used by Institutions of Public Charity (N.D.C.C. § 57-02-08(8))
   a. Exemption applies to buildings and land actually occupied by such institutions
   b. Two-pronged test for eligibility
      - ► Property is owned by a religious or charitable institution recognized as tax exempt under section 501(c)(3) of the United States Internal Revenue Code
      - ► Property must be used for a charitable purpose of the institution set out in the articles of incorporation or bylaws

4. Farm Residence Exemption (N.D.C.C. § 57-02-08(15)(b))
   a. Residence is situated on a farm (minimum of 10 contiguous acres)
   b. Residence is occupied by a farmer
      - ► A farmer is an individual who devotes the major portion of time to producing products of the soil, poultry, livestock, or dairy farming in such products' unmanufactured state
      - ► Individual has received 50% or more of annual net income, including net income of a spouse if married, from farming activities in any of the three preceding calendar years
      - ► Residence is not exempt if the individual had nonfarm income, including that of a spouse if married, of more than $40,000 during each of the three preceding calendar years

5. Exemption for New Construction of Single-family Residential Property (N.D.C.C. § 57-02-08(35))
   a. Up to $75,000 true and full value exclusive of land may be exempt for the first two tax years after construction is begun
   b. Requires approval of exemption by resolution of the governing body of city or county
   c. Resolution may be rescinded or amended at any time
   d. Governing body may impose conditions including limitation on the time during which an exemption is allowed
6. Exemption for New Construction of Condominium and Townhouse Residential Property (N.D.C.C. § 57-02-08(36))
   a. Up to $75,000 true and full value exclusive of land may be exempt for the first two tax years after construction is begun
   b. Requires approval of exemption by resolution of the governing body of city or county
   c. Resolution may be rescinded or amended at any time
   d. Governing body may impose conditions including limitation on the time during which an exemption is allowed
7. Homestead Property Tax Credit (N.D.C.C. § 57-02-08.1(1))
   a. This is technically a credit because the State reimburses political subdivisions for taxes lost due to exemption of property
   b. Applicant must be 65 years of age or older, or permanently and totally disabled
   c. Applicant’s total income from all sources in the previous calendar year cannot exceed $17,500
   d. Applicant’s total assets excluding the first unencumbered $100,000 value of the homestead cannot exceed $50,000
   e. Applicants deduct medical expenses paid out of pocket and for which they were not reimbursed when calculating reportable income
   f. Application is made to local assessor or county director of tax equalization
   g Benefit is a reduction in the taxable value of the applicant’s homestead to a maximum taxable value of $3,375, which represents $75,000 true and full value.
   h. Counties apply to Office of State Tax Commissioner for reimbursement of taxes lost
   i. Applicant may make application for abatement for previous years
8. Senior Citizen or Permanently and Totally Disabled Renter’s Property Tax Refund (N.D.C.C. § 57-02-08.1(2))
   a. Same age or disability and income requirements as for Homestead Credit
   b. No asset test for renters
   c. If 20 % of rent paid for living quarters exceeds 4% of income, the State issues a refund for the difference up to a maximum of $240
   d. Application is made to State Tax Commissioner before June 1 of each year
   e. There is no provision to apply for previous years for which the applicant may have been eligible

H. Mobile home taxation

1. "Mobile home" means a structure, either single or multisectional, which is built on a permanent chassis, ordinarily designed for human living quarters, either on a temporary or permanent basis, owned or used as a residence or place of business of the owner or occupant, which is either attached to utility services or is 27 feet or more in length
2. N.D.C.C. chapter 57-55 provides for taxation of mobile homes
   a. True and full value, assessed value, and taxable value same as for real property
   b. Different dates and provisions for collection of mobile home taxes
   c. Tax permit required
   d. Certain specific exemptions for mobile homes
3. A mobile home permanently attached to a foundation on land owned by the mobile home owner is assessed as real property and is not subject to the mobile home tax

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Bismarck, ND 58505-0599

701.328.7088 phone
701.328.3700 fax
877.328.7088 toll-free

Property Tax Guidelines

Credits and Refunds

N.D.C.C. § 57-02-08.1	Property Tax Credits for North Dakota Homeowners and Renters - (37kb pdf) (7-07)	G-1
N.D.C.C. § 57-02-08.3	Homestead Credit for Special Assessments - (50kb pdf) (7-05)	G-6

Property Exempt From Taxation

N.D.C.C. § 57-02.2	Improvements to Commercial and Residential Buildings - (27kb pdf) (7-07)	G-8
N.D.C.C. § 57-02-08(15)	Farm Structures and Other Improvements - (31kb pdf) (7-07)	G-9
N.D.C.C. § 57-02-08(20)	Qualifying Veterans and Disabled Persons Confined to Use of a Wheelchair - (28kb pdf) (7-07)	G-11
N.D.C.C. § 57-02-08(35)(36)	Certain New Single Family Residential Properties - (55kb pdf) (7-05)	G-13
N.D.C.C. § 40-57.1	Property Tax Incentives for New or Expanding Businesses - (56kb pdf) (7-05)	G-15

Assessors

N.D.C.C. § 58-05-02	Office of Township Assessor - (12kb pdf) (12-03)	G-18
N.D.C.C. § 57-02-33	Assessor Districts for Unorganized Territory - (12kb pdf) (12-03)	G-19

Property Not Assessed By Local Assessors

N.D.C.C. § 49-24,

Property Tax Guidelines, cont'd on next page

Property Tax Guidelines, cont'd

Valuation of Real Property

Miscellaneous Guidelines

Coal taxes

A. Coal severance tax

1. Tax imposed on all coal severed for sale or for industrial purposes
   a. In lieu of sales and use taxes
   b. Payable monthly to the State Tax Commissioner

2. Rate:
   a 37.5 cents per ton: allocated 30% to State, 70% to coal-producing county
   b. Additional tax of 2 cents per ton dedicated to the lignite research fund

3. Exemptions - reductions:
   a. Coal used primarily for heating buildings in North Dakota
   b. Coal used by the State and political subdivisions of the State
   c. Coal used in agricultural processing or sugar beet refining plants located within North Dakota or adjacent states
   d. The 37.5-cent tax is reduced 50% for coal to be burned in a cogeneration facility designed to use renewable resources as fuel to generate 10% or more of its energy output
   e. Coal shipped out of state
      ► Subject to 30% of the 37.5-cent tax
      ► Subject to up to 70% of the 37.5-cent tax at the option of the county in which the coal is mined
      ► Subject to the 2-cent tax

4. Distribution of tax
   a. 30% to the coal development trust fund
   b. 70% to the coal producing county
      ► 40% to the county general fund
      ► 30% to cities within the county
      ► 30% to school districts within the county
   c. If the coal mine tipple is within 15 miles of a non-coal-producing county, the coal-producing county must share its distribution with the non-coal-producing county

B. Coal conversion facilities privilege tax

1. Privilege tax
   a. In lieu of property tax on coal conversion facilities, excluding land
   b. Payable monthly to the State Tax Commissioner

2. Coal conversion facility:
   a. Electrical generation plant that converts coal into electrical power and which has at least one single electrical energy generation unit with a capacity of 10,000 kilowatts or more
   b. A plant which is designed for coal beneficiation
   c. A plant, other than an electrical generating plant or a coal beneficiation plant, which processes or converts coal from its natural or beneficiated form into a form substantially different in chemical or physical properties, including coal

gasification, coal liquefaction, and the manufacture of fertilizer and other products, and which uses or is designed to use over 500,000 tons of coal per year

d. A gas-fired electrical generating facility which generates electrical power through the consumption of gas produced by the conversion of coal from its natural or beneficiated form into gas and has a capacity of 10,000 kilowatts or more

3. Tax rates:
   a. Electrical generating plant
      - ► Installed capacity times 60% times number of hours in the reporting period times .65 mill (.00065) plus
      - ► Kilowatt hours produced for sale times .25 mill (.00025)
   b. Coal beneficiation plant
      - ► 20 cents on each ton of beneficiated coal produced for sale or
      - ► 1¼ % of gross receipts, whichever is greater
   c. Coal gasification plant
      - ► 4.1% of gross receipts or
      - ► 13 ½ cents on each 1,000 cubic feet of synthetic natural gas produced for sale, but not including any amount of synthetic natural gas in excess of 110 million cubic feet per day, whichever is greater
   d. All other coal conversion facilities
      - ► 4.1 % of gross receipts

4. Exemptions:
   a. Electrical generating plants that begin construction or complete repowering
      - ► Exempt from 85% of the tax on installed capacity for 5 years from the date of first taxable production or from the date of first taxable production after repowering from the plant.
      - ► County commissioners may grant a partial or complete exemption from the remaining 15% for a period not exceeding 5 years from the date of first taxable production or from the date of first taxable production after repowering from the plant.
      - ► Exempt from 100% of the tax on production
   b. All other coal conversion facilities
      - ► Exempt from 85% of the tax for a period of five years from the date of first taxable production from the facility
      - ► County commissioner may grant a partial or complete exemption from the remaining 15 percent of the tax for a period not exceeding 5 years from the date of first taxable production

5. Allocation of revenue
   a. 85% to the State General Fund and 15% to the county except
      - ► The tax on electrical production is deposited in the State General fund
      - ► The first $41,666.67 each month from the tax on coal gasification plants and all other plants except electrical generating plants and coal beneficiation plants must be deposited in the State General Fund through December 31, 2009.

Oil and gas taxes

A. Historical perspective

1953: The gross production tax was imposed at a rate of 4¼% of gross value at the well.

1980: **Initiated Measure.** Voters in the 1980 General Election passed an initiated measure creating the 6½% oil extraction tax. The revenue distribution formula was: 45% to the State General Fund, 45% to schools, and 10% to the trust fund.

1987: A 15 month oil extraction tax exemption for production from a new well was provided and the tax rate was reduced from 6½% to 4% for a new well after the exempt period and for production from a qualifying secondary or tertiary recovery project well. These incentives became subject to a trigger price of $33 or more per barrel.

1989: The revenue distribution formula was amended, effective July 1, 1991 to allocate 33 1/3 % of the first one-fifth portion to the Oil and Gas Impact Grant Fund.

A 12-month oil extraction tax exemption was provided for production from a qualifying workover project well.

1991: The gross production tax on gas was changed from 5% of gross value to an annually adjusted flat rate of $.04 per mcf.

An oil extraction tax exemption was created for incremental oil from a qualifying secondary or tertiary recovery project; after expiration of the exempt period the rate is reduced to 4%.

1995: The oil extraction tax exemption for a horizontal new well was increased from 15 to 24 months and a 9-month exemption was created for a horizontal reentry well.

A 10-year oil extraction tax exemption was created for oil from a two-year inactive well.

1997: A permanent oil tax trust fund was established for the deposit of oil extraction and gross production tax revenues which exceed specific amounts in a biennium.

A 60-month oil extraction tax exemption was created for production from a well drilled and completed on an Indian reservation or on tribal trust land.

2001: The "trigger" provision for oil extraction tax exemptions and rate reductions was amended to clarify when the trigger was to be become effective. All rate reductions and exemptions subject to the trigger provision become ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. The reduced rates and exemptions are reinstated if the average price falls below the trigger price for each month in any consecutive five-month period. Average price is defined as the monthly average of the daily closing price for a barrel of west Texas intermediate Cushing crude oil minus two dollars and fifty cents. Trigger price is defined as thirty-five dollars and fifty cents, as indexed for inflation.

2003: An oil and gas research council was created and an oil and gas research fund was established with a continuing appropriation provided.

An exemption from gross production tax was provided for gas produced from shallow gas wells.

2005: A sales and use tax exemption was provided for carbon dioxide used for the enhanced recovery of oil or natural gas.

2007: The oil extraction tax rate was reduced to 2% for the first 75 thousand barrels of oil produced during the first 18 months after completion from a well drilled and completed in the Bakken formation after June 30, 2007, and before July 1, 2008.

The distribution formulas for the county share of gross production tax was increased to 100% of the first million, 75% of the second million, 50% of the third million, and 25% for amounts over $3 million.

A county may receive $1 million in addition to the amount of the cap if during the fiscal year the county levies a total of at least 10 mills for road and bridge purposes.

The Governor, in consultation with the Tax Commissioner, is authorized to enter into agreements with the Three Affiliated Tribes relating to taxation and regulation of oil and gas exploration and production within the boundaries of the Fort Berthold Reservation.

B. Imposition, rates, and administration

1. **Gross Production Tax:** The oil and gas gross production tax is imposed in lieu of property taxes on oil and gas producing properties.
   a. **Oil:** A 5% rate is applied to the gross value at the well of all oil produced.
   b. **Gas:** The tax on gas is an annually adjusted flat rate per thousand cubic feet (mcf) of all nonexempt gas produced in the state. The annual adjustment is calculated using the average producer price index for gas fuels. The flat tax rate was implemented at $.04 per mcf; the adjusted rate for the current fiscal year is $.1476 per mcf. Production from a qualifying shallow gas well is exempt for the first 24 months.
      - ► The royalty interest in oil or gas produced from a state, federal or municipal holding and from a Native American holding within the boundary of a reservation is exempt from gross production tax.
      - ► Monthly tax reports are required from purchasers and processors of production from both oil and gas wells. Purchasers and processors are required to file monthly reports electronically. Producers are required to submit tax reports for all sales from both oil and gas wells. The Tax Commissioner has the authority to waive a producer's filing requirement if certain conditions are met.
      - ► The gross production tax and oil extraction tax are paid monthly on a combined reporting form.
   c. **Oil Extraction Tax:** The oil extraction tax is levied on the extraction of oil from the earth. The tax rate is 6½% of the gross value at the well of crude oil.
      The rate is reduced to 4% for oil produced from the following:
      - ► A vertical or horizontal new well, after the appropriate exemption expires.

- ► A workover well after the exemption expires.
- ► Incremental oil from a qualifying enhanced recovery project, after the appropriate exemption expires.
- ► Nonincremental oil from a qualifying secondary recovery project that has reached an average production level of at least 25% over normal operations for six consecutive months.
- ► Nonincremental oil from a qualifying tertiary recovery project that has reached a production level of at least 15% over normal operations for one month and continues to be operated as a qualifying project.
- ► The rate is reduced to 2% for the first 75 thousand barrels of oil produced during the first 18 months after completion from a well drilled and completed in the Bakken formation after June 30, 2007, and before July 1, 2008.

d. **Exemptions.** To receive the full benefit of an exemption or the 4% reduced rate, a producer must file the Industrial Commission's certification of well status with the Tax Commissioner within 18 months of the first day of eligibility. If the producer does not file within the 18-month period, then the exemption or reduced rate begins the first day of the month in which the certification is received by the Tax Commissioner.

The exemptions to the oil extraction tax are as follows:

- ► Royalty interest in oil extracted from a state, federal or municipal holding and from a Native American holding within the boundary of a reservation.
- ► Oil extracted from a certified stripper well property.
- ► Oil produced during the first 15 months of production from a vertical new well.
- ► Oil produced during the first 24 months of production from a horizontal new well.
- ► Oil produced during the first 60 months of production from either a vertical new well or a horizontal new well drilled and completed within the boundaries of an Indian reservation or on tribal trust land.
- ► Oil produced from a horizontal reentry well for a period of 9 months beginning on the date the well is recompleted as a horizontal well.
- ► Oil produced from a two-year inactive well for a period of ten years after being recompleted or returned to production.
- ► Oil produced for a period of 12 months from a qualifying well that has been worked over.
- ► Incremental oil from a qualifying secondary or tertiary recovery project. The exemption is 5 years for secondary recovery projects and 10 years for tertiary recovery projects from the date the incremental production begins.

e. **"Trigger" Provisions.** The exemptions and reduced rate provisions for new wells, horizontal wells, horizontal reentry wells, two-year inactive wells, workover wells, and enhanced recovery wells are ineffective if the average price of a barrel of crude oil exceeds the trigger price (thirty-five dollars and fifty cents, as indexed for inflation) for each month in any consecutive five-month period. The reduced rates and exemptions are reinstated if the average price falls below the trigger price for each month in any consecutive five month period.

- ► Production from stripper wells, wells drilled on an Indian reservation or on tribal trust land, and incremental oil produced from enhanced recovery wells retain their exempt status.
- ► The Tax Commissioner has determined that the tax incentives subject to the trigger price became ineffective for production periods beginning October 1, 2004, and until such time as the statutory provisions for reinstatement are met.
- ► The trigger price effective for calendar year January 1, 2009, through December 31, 2009, is $47.66.

C. Distribution of revenue:

1. **Gross Production Tax:** Revenue from the gross production tax is distributed under the following formula:
   a. One-fifth is deposited with the State Treasurer. One third of which is allocated to the Oil and Gas Impact Grant Fund, up to a maximum of $6 million per biennium. The remainder is deposited to the State General Fund.
   b. Four-fifths is allocated between the State General Fund and the producing county according to the following formula:

Revenue	County	State
Up to $1 million	100%	0%
$1 to $2 million	75%	25%
$2 to $3 million	50%	50%
Over $3 million	25%	75%

   c. The amount any one county can receive per fiscal year is limited according to population as follows:

Population	Maximum Distribution
Up to 3,000	$ 3.9 million
3,000 to 6,000	$ 4.1 million
6,000 or more	$ 4.6 million

   d. Tax revenue distributed to a county is further split with 45% earmarked for the county general fund, 35% for the school districts within the county, and 20% to incorporated cities within the county.
   e. A county may receive an additional $1 million for each fiscal year if during that fiscal year the county levies a total of at least 10 mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.

2. **Oil Extraction Tax:** Revenue from the oil extraction tax is distributed as follows:
   a. 60% to the State General Fund.
   b. 20% divided equally between the Common Schools Trust Fund and Foundation Aid Stabilization Fund.
   c. 20% to the Southwest Water Pipeline Sinking Fund and to a Resources Trust Fund. Principal and income from the Resources Trust Fund may be expended only pursuant to legislative appropriation and are available for water and certain energy related projects.

Motor fuels taxes

A. Historical perspective

1977: The motor vehicle fuel tax and the special fuels tax rates increased from 7 cents to 8 cents per gallon.

1983: The motor vehicle fuel tax and the special fuels tax rates increased from 8 cents to 13 cents per gallon.

1987: The motor vehicle fuel tax and special fuels tax rates increased from 13 cents to 17 cents per gallon.

1989: The motor vehicle fuel tax rate increased from 17 cents to 20 cents per gallon and the special fuels tax rate increased from 17 cents to 19 cents per gallon.

1991: An additional 2 cents per gallon was withheld from farmers' refunds and deposited in the Highway Tax Distribution Fund for incentives to North Dakota ethanol plants.

1997: The motor vehicle fuel tax and special fuels tax rates increased to 20 cents per gallon and a provision was added to the special fuels tax chapter allowing the 2% special fuels excise tax to be charged on fuel dyed for federal motor fuel tax exemption purposes. The refund requirements were revised to allow refunds of motor vehicle fuel tax and special fuels tax to industrial fuel users when the fuel was used in nonlicensed equipment on publicly funded projects. An additional 4 cents per gallon is withheld from agricultural consumer refund claims for deposit into an agricultural research fund, and the amount withheld for ethanol production incentives was lowered from 2 cents per gallon to 1 cent per gallon.

1999: The motor vehicle fuel tax and the special fuels tax rates increased to 21 cents per gallon. The legislature also repealed the refund provisions for special fuel taxes and enacted a dyed fuel enforcement program. Dyed diesel fuel may not be used in licensed motor vehicles, and in the event of a violation, administrative fees may be assessed.

2005: The motor vehicle fuel tax and the special fuels tax rates increased from 21 cents per gallon to 23 cents per gallon. A special fuels tax exemption was provided through June 30, 2010, for the sale of hydrogen used to fuel an internal combustion engine or fuel cell. Provided for motor vehicle and special fuel tax refunds to Native Americans on reservations without a motor fuel agreement in place.

2007: Motor fuel refunds are available for emergency medical services. The special fuels excise tax rate for all special fuels, except LPG, changed from 2% of the value to 4 cents per gallon. The special fuels excise tax rate for heating fuel was reduced to 2 cents per gallon and 1% respectively through June 30, 2009; beginning July 1, 2009, heating fuels are exempt from tax.

B. Imposition, rates, and administration

1. **Motor Vehicle Fuel Tax (Gasoline and Gasohol).** A motor vehicle fuel tax of 23 cents per gallon is imposed on motor vehicle fuel (gasoline and gasohol) sold. Tax paid on fuel used in nonlicensed equipment for agricultural or industrial purposes may obtain a partial refund. The operator of a licensed emergency medical services operation may obtain a partial on all motor vehicle fuel used by the emergency medical services operation.

2. **Special Fuels Taxes.** A special fuels tax of 23 cents per gallon is imposed on all undyed (not red) diesel fuels, kerosene, compressed natural gas, and liquefied petroleum gas sold for use in licensed vehicles.
   a. A special fuels excise tax of 4 cents per gallon is imposed on dyed (red) diesel fuels and kerosene and a 2% special fuels excise tax is imposed on liquefied petroleum gas sold for uses other than in a licensed motor vehicle. The tax is reduced to 2 cents per gallon and 1% respectively for special fuels used as heating fuel through June 30, 2009; beginning July 1, 2009, heating fuels are exempt from tax.
   b. The 23 cents per gallon and the 4 cents per gallon and the 2% special fuels excise tax are not refundable. The special fuels tax statute is often referred to as a “buy right” law; purchases of the appropriate fuel are to be made with the tax paid at the imposed rate for “on-road” and “off-road” purposes.
   c. An exception is made for refunds that are available to the operator of a licensed emergency medical services operation which may obtain a partial refund on all special fuel used by the emergency medical services operation.

3. **Aviation Fuel Tax.** The aviation fuel tax is imposed on the sale of aviation gasoline and jet fuels at a rate of 8 cents per gallon. Claims that qualify for a refund of the 8 cents per gallon tax become subject to a 4% excise tax on the purchase price of the fuel. The 4% excise tax is deducted from the refund claim at the time of refund.
   a. The operator of a licensed emergency medical services operation may obtain a refund on all aviation fuel used by the emergency medical services operation.

4. **Tribal Tax.** The North Dakota portion of the Standing Rock Sioux Tribe, the Spirit Lake Tribe, and the Three Affiliated Tribes passed ordinances imposing Tribal motor vehicle fuel and special fuel taxes. The ordinances are consistent with North Dakota's state fuel tax laws. The initial implementation date for the Standing Rock Sioux Tribe was January 1, 1999, for the Spirit Lake Tribe that date was November 1, 2006, and for the Three Affiliated Tribes that date was October 1, 2007. The amount to be distributed to the Tribes and to the state is based on the population demographics of the last United States census.

C. Distribution of revenue:

1. **Motor Vehicle Fuel Tax (23¢ per gallon):**
   a. 22¢ Highway Tax Distribution Fund
   b. 1¢ Township Highway Aid Fund
   c. <u>Withheld from farmers’ refunds (8¢ per gallon):</u>
      - ► 1¢ Township Highway Aid Fund
      - ► 2¢ Agricultural Fuel Tax Fund
      - ► 1¢ Ethanol Production Fund

- ► 4¢ Agricultural Research Fund

d. Withheld from Industrial users' refunds (1½¢ per gallon):
- ► 1¢ Township Highway Aid Fund
- ► ½¢ Agricultural Fuel Tax Fund

e. Withheld from state or political subdivision and emergency medical services' refunds (1¢ per gallon):
- ► 1¢ Township Highway Aid Fund

2. **Special Fuels Tax (23¢ per gallon):**
   a. 22¢ Highway Tax Distribution Fund
   b. 1¢ Township Highway Aid Fund
   c. Withheld from emergency medical services' refunds (1¢ per gallon):
      - ► 1¢ Township Highway Aid Fund

3. **Special Fuels Excise Tax (4¢ or 2¢ per gallon):**
   a. 100% Highway Tax Distribution Fund

4. **Special Fuels Excise Tax – LPG (2% or 1% of sales price):**
   a. 100% Highway Tax Distribution Fund

5. **Aviation Fuel Tax (8¢ per gallon):**
   a. 8¢ Aeronautics Commission Special Fund
   b. Withheld from refunds:
      - ► 4% Aviation fuel excise tax
   c. Withheld from emergency medical services' refunds (0¢ per gallon)

6. **Aviation Fuel Excise Tax (4% of sales price):**
   a. 100% Aeronautics Commission Special Fund

7. **Highway Tax Distribution Fund**
   a. 63% allocated to state highway purposes
   b. 37% allocated to the counties and cities

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Common Tax Department Phrases, Acronyms

A	Abatement	Formal process by which a property owner may apply for a correction in the assessment of property.
	Ad valorem	According to value.
	Adjusted gross income (AGI)	Under federal tax law, the amount of gross income (which is before all deductions) reduced by allowable business expenses and expenses incurred to produce income, and by certain other deductions specified by law. Sometimes referred to as “the line” on the federal income tax return, below which only certain personal expenses, such as medical expenses, are allowed. Also used as a threshold for a number of other calculations.
	Agricultural value	True and full value for agricultural land, calculated by statutory formula – defined as “capitalized average annual gross return” except for inundated agricultural land.
	Aircraft	Includes airplanes, helicopters, manned balloons, and ultralight vehicles.
	Alcoholic beverages	Any liquid suitable for drinking by human beings, which contains one-half of one percent or more of alcohol by volume.
	Allocation	Refers to the specific assignment of an item of nonbusiness, or “allocable,” income (net of related expenses) to a particular state for income or financial institution tax purposes.
	Annual gross return	Set in statute for agricultural property.
	Apportionment	Refers to the method of determining the amount of business, or “apportionable,” income of a multistate entity that is reportable to a state. In North Dakota this consists of an equally weighted 3-factor formula based on the property, payroll and sales of the taxpayer.
	Article made to order	Fabricated tangible personal property where total charge (materials and labor) are subject to sales tax.
	Assessed value	50 percent of true and full value.
	Average price	The monthly average of the daily Wall Street closing price for a barrel of west Texas intermediate Cushing crude oil less two dollars and fifty cents.
	Aviation fuel	Jet fuel/aviation gasoline fuels.
B	Band of investment	Method by which capitalization rates are commonly calculated; includes weighted returns to equity and debt; may include other components.
	Beer	Any malt beverage containing one-half of one percent or more of alcohol by volume.
	Bottle or can	Any container, regardless of the material from which made, having a capacity less than a bulk container for use for the sale of malt beverages at retail.
	Bracket creep	Occurs when wages increase due to inflation, causing taxable income to cross over into the next higher income tax bracket resulting in payment of higher tax even though taxpayer’s spending power has not increased.
	Bulk container	Containers having a capacity not less than one-sixth barrel for use for the sale of malt beverages.
	Business income	Refers to income from transactions and activity in the regular course of the taxpayer’s business, and income from tangible or intangible property if the acquisition, management, and disposition of the property constitute an integral part of the taxpayer’s business operations.
C	C corporation	Also referred to as a “regular” corporation, this term is commonly used to describe a corporation that pays income tax on its profits. The “C” derives from subchapter C of the Internal Revenue Code. The term is used to distinguish it from a corporation that has elected to be an “S corporation,” which generally does not pay tax on its profits but passes the profits through to its shareholders to be taxed on their individual income tax returns.
	Capital gain or loss	Refers to a gain or loss from the sale or exchange of a capital asset, which consists of property not used in a business. Certain business property held over one year is treated like a capital asset under special rules. A capital gain or loss may be given preferential treatment.
	Capitalization rate	Statutory calculation for valuing agricultural land, with a statutory floor; generally obtained from the market for valuing other types of property; a lower cap rate produces a higher value.

Glossary of common terminology

	Carryback/ Carryforward	To take a deduction or tax credit and apply it to a tax year before (carryback) or after (carryforward) the tax year in which the deduction or tax credit was incurred or earned.
	Certified automated system (CAS)	Software certified under the Streamlined Sales and Use Tax Agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the state, and maintain a record of the transaction.
	Certified service provider (CSP)	An agent certified under the Streamlined Sales and Use Tax Agreement to perform all of the seller's sales and use tax functions other than the seller's obligation to remit tax on its own purchases.
	Chewing tobacco	Any leaf tobacco that is intended to be placed in the mouth.
	Cigar	Any roll of tobacco wrapped in tobacco.
	Class I City Assessor	Individual certified to assess in cities of 5,000 population or more.
	Class II City Assessor	Individual certified to assess in cities of less than 5,000 population.
	Combined report	Refers to a state corporation income tax return in which the tax base is determined by combining the business income or loss of two or more related corporations.
	Consolidated return	Refers to a state corporation income tax return filed to report the tax liabilities of two or more related corporations, each of which is engaged in business or has North Dakota source income and is filing a combined report. The tax liability is computed separately for each included corporation (as if the corporation were filing its own return), and the consolidated return is used to report the total of the separately computed liabilities. This is not the same as a consolidated federal income tax return.
	Cost approach to value	Method of valuing property based on its cost less depreciation and obsolescence.
	County Director of Tax Equalization	Certified individual employed by the county, has statutory responsibilities to regarding property assessments and mobile home assessments.
	Credit, or tax credit	An amount that reduces the tax dollar-for-dollar, and therefore is generally more beneficial than a deduction from income.
D	Deduction	An amount that reduces income in computing adjusted gross income or taxable income. Because federal taxable income is the starting point in computing the North Dakota income and financial institution tax, any deduction allowed in computing federal taxable income under federal tax law is automatically allowed for North Dakota tax purposes, unless an exception is provided under North Dakota tax law.
	Distributor	(Fuel Tax) Business making wholesale fuel sales or sales of tax free fuel to other distributors.
	Domestic corporation	For North Dakota tax purposes, a corporation created or organized under North Dakota law. (In the everyday business world, this term is often used to refer to any corporation created or organized in the U.S. as a domestic corporation.).
	Dyed special fuel	Special fuel to which an indelible dye meeting United States environmental protection agency and internal revenue service regulations has been added before or upon withdrawal at a terminal or refinery rack.
E	EDI	Electronic data interchange.
	Effective tax rate, or average tax rate	Percentage equal to the tax liability divided by taxable income. Example: If the total tax is $100 and the taxable income on which it is based is $10,000, the effective tax rate is 1%.
	ERO	Electronic Return Originator – a tax preparer approved by the IRS & the Tax Department to submit returns electronically through the Federal/State e-file program.
	Estimated income tax, or estimated tax	An advance payment, usually made in four quarterly installments, of the amount of income tax expected to be due for the tax year. It is generally required of corporations and individuals having business income or other types of income not subject to income tax withholding.
F	Federalization	For North Dakota income and financial institution tax purposes, this term is used to describe those parts of state tax law that are tied to or based on federal income tax law. For example, North Dakota income tax law is federalized as to its starting point, which is federal taxable income.
	FEIN, or federal employer identification number	A 9-digit number generally assigned to businesses by the IRS for identification and recordkeeping purposes.
	FERC	Federal Energy Regulatory Commission.
	FHWA	Federal Highway Administration.

Glossary of common terminology

	FTI, federal taxable income	Under federal tax law, the amount to which the federal income tax rates are applied. This amount is the starting point in computing the North Dakota income or financial institution tax, which means that the treatment of income and deductions included in the computation of federal taxable income automatically applies for North Dakota tax purposes, unless an exception is provided under North Dakota tax law.
	Filing status	**Income tax**: Under federal income tax law, refers to one of five statuses into which all individuals are placed for income tax purposes—(1) Single; (2) Married filing jointly; (3) Qualifying widow(er); (4) Head of household; and (5) Married filing separately. The applicable status determines which set of federal income tax rates apply to the individual's taxable income. The same set of tax rates applies to married filing jointly and qualifying widow(er). These statuses are also used to determine eligibility for various tax benefits as well as applying various limitations. **Sales tax**: reporting periods for which taxpayer is responsible for filing tax reports – monthly, quarterly, semiannual, and annual.
	Financial institution	A bank, trust company, building and loan association, bank holding company, production credit association (PCA), certain financial leasing companies, and other similar entities. These entities are not subject to ND income tax (in N.D.C.C. Chp. 57-38) but are subject to the North Dakota financial institution tax (in N.D.C.C. Chp. 57-35.3), which is a tax measured by income that is imposed for the privilege of transacting, or the actual transacting of, business in North Dakota.
	Foreign corporation	For ND tax purposes, a corporation created or organized outside North Dakota
	Form 500	Information Disclosure form
G	Gross income	All income (that is subject to tax) before any allowable deductions are subtracted.
	Gross value at the well	Fair market value at the time of production.
H	Heating fuel use	Use of special fuel to heat homes, private and public office buildings, or private and public commercial buildings.
	Homestead credit	Property tax relief program available to homeowners and renters who are 65 years of age or older or who are permanently and totally disabled, and whose income from all sources does not exceed $17,500.
I	IAAO	International Association of Assessing Officers.
	Income approach to value	Method of valuing property by dividing income by a capitalization rate.
	Incremental production	Oil that is produced from a secondary or tertiary recovery project in excess of what production would be expected if the recovery project had not been completed.
	Indexing	An adjustment to increase an amount to account for inflation. For example, for federal income tax purposes, the standard deduction amount, personal exemption amount, and tax rate income bracket amounts are indexed each year.
	Information return	A return that must be filed to report income and other specified information, such as a Form W-2, Form 1099, and a partnership return.
	Interstate commerce	Business activity or transportation occurring between states (across state lines).
	Inventory removal	Contractor removes construction material inventory from this state for use in another state (sales and use tax).
	Itemized deduction, or itemizing	Under federal income tax law, a personal expense allowable as a deduction ("below the line," or after AGI) in calculating taxable income. It is only beneficial if total itemized deductions exceed the standard deduction amount, in which case the itemized deductions are claimed in lieu of the standard deduction. Examples of itemized deductions include medical expenses, home mortgage interest, home property tax, and charitable contributions.
J		
K		

Glossary of common terminology

L	LP or LPG	Liquefied Petroleum Gas or propane.
	LLC, or limited liability company	A separate legal entity created under state law in a manner similar to a corporation. It is a business entity form that has become a popular alternative to the partnership form because it provides personal liability protection to its owner(s) and limits it to the investment in the entity. For federal income tax purposes, it is generally treated like a partnership, where its profits are not taxed to the entity but are passed through to its owners.
	Long form	In the North Dakota individual income tax area, this term was originally used to refer to Form 37, the individual income tax form used before 2001. The description first came into use in 1981 when the legislature created a second individual income tax system. The new system was implemented on a postcard-sized form named Form 37-S, which immediately became known as the "short form." In 2001, Form 37 was renamed Form ND-2. Form ND-2 is still sometimes referred to as the long form.
	Liquor	Any alcoholic beverage except beer
M	Marginal tax rate	The tax rate for the highest income bracket in which a taxpayer's taxable income falls. Example: A single individual's North Dakota taxable income for 2008 is $50,000, part of which will fall into the 2.1% bracket and part in the 3.92% bracket. The marginal tax rate is 3.92%.
	Market approach to value	Method of valuing property based on comparisons with other properties that have sold.
	Market value	Same as true and full value for residential, commercial, and centrally assessed property.
	Marriage penalty	Refers to the amount of tax paid by married persons on a joint income tax return that is in excess of the total tax that they would have paid had they filed as single persons.
	Microbrew pub	A brewer that brews ten thousand or fewer barrels of beer per year and sells beer produced or manufactured on the premises for consumption on or off the premises or serves beer produced or manufactured on the premises for purposes of sampling the beer.
	Mill	One-tenth of a cent.
	Mill rate	Tax rate that is multiplied by taxable value to calculate property tax; must be expressed in five decimal places.
	Motor fuels	All fuel types.
	Motor vehicle excise	5% excise tax imposed at time of registration and titling of motor vehicle, commonly referred to incorrectly as "sales tax."
	Motor vehicle	Every vehicle that that is self-propelled and every trailer, semitrailer, off-highway vehicle, snowmobile, low-speed vehicle and travel trailer for which a certificate of title is required under NDCC Chapter 39-05 (Title Registration) but does not include house trailers or mobile homes.
	Motor vehicle fuel	Gasoline/gasohol/E85 fuels.
N	NDAAO	North Dakota Association of Assessing Officers.
	Nexus	The minimum threshold of "connection" or "presence" with a taxing jurisdiction that is required before a state may impose its taxes or tax collection responsibilities on out-of-state individuals and businesses.
	NOL, net operating loss	A net loss from business activity that can be used to offset income in specified tax years before and after the tax year in which the loss was incurred. Under North Dakota income tax law, an NOL may only be carried forward to offset income in tax years after the tax year of the loss.
	Nonresident	An individual who is not a legal resident of a state. See "Resident" for more information.
O	Operator	The person responsible for the actual physical operation of the producing property.
P	Passthrough entity	Refers to a business entity which does not pay income tax at the entity level but passes its income or losses through to its owners to be reported on their income tax returns. It includes a partnership (general or limited), S corporation, and a limited liability company treated like a partnership or S corporation.

Glossary of common terminology

	Payroll tax	A tax based on an employee's wages which an employer is required to pay to the government. They include federal and state income taxes and one-half of the federal social security and Medicare taxes required to be withheld from the employee's wages, and the employer's payment of the other one-half of the federal social security and Medicare taxes. In some jurisdictions, this may also include a city income tax.
	Permit holder	Sales & Use Tax Permit holder.
	Personal exemption	Under federal income tax law, a specified amount of an individual's income that is not subject to income tax, which is provided in the form of a deduction from adjusted gross income. The deduction amount is allowed for each taxpayer and each qualifying dependent included in the income tax return.
	Personal property	All property that is not real property.
	Posted price	The price specified in publically available posted price bulletins or notices, net of any adjustments for quality and location.
Q	Qualifying secondary recovery project	A project using water injection to flood the formation and force the oil to central recovery locations.
	Qualifying tertiary recovery project	A project using carbon dioxide or other various injection methods to force oil to central recovery locations.
R	Real property	Land, improvements to the land, structures and buildings; machinery and equipment, not including small tools and office equipment, used in refining products from oil or gas.
	Reciprocity	**Income Tax:** Refers to either of the two formal agreements between North Dakota and the States of Minnesota and Montana, under which the residents of North Dakota are exempted from the other state's income tax on income specified in the agreement. Residents of Minnesota and Montana are similarly treated by North Dakota. The Minnesota agreement covers income from personal and professional services, while the Montana agreement covers wages subject to federal income tax withholding. **Sales Tax:** Refers to tax credit given to taxpayer for sales taxes previously paid to another state on tangible personal property brought into this state for storage, use or consumption
	Refund	Payment to a taxpayer of an amount paid by the taxpayer that is in excess of the amount of tax owed by the taxpayer.
	Refund offset or offset	Application of taxpayer's tax refund to reduce (offset) child support, or other specified debt owned by taxpayer.
	Renaissance zone	Income tax incentive area composed of residences or historic property that is purchased and renovated.
	Resident	An individual who is a legal resident, or domiciliary, of North Dakota. In general, it is the permanent home of the individual to which the individual returns when absent from it for any reason. It is a legal status based on the individual's intent and the individual's actions that support that intent.
S	"S" Corporation, or subchapter S corporation	Refers to a corporation that has elected to be treated like a passthrough entity for federal income tax purposes. The "S" derives from subchapter S of the Internal Revenue Code. The term is used to distinguish it from a C corporation. An S corporation generally does not pay income tax on its profits but passes the profits through to its shareholders to be taxed on their individual income tax returns.
	Short form	In the North Dakota individual income tax area, this term refers to Form 37-S, the individual income tax form used from 1981 through 2000. The description first came into use in 1981 when the legislature created a second individual income tax system. The new system was implemented on a postcard-sized form named Form 37-S, which immediately became known as the "short form" due to its physical size and simply computation. In 2001, Form 37-S was renamed Form ND-1. This term is still sometimes used to describe Form ND-1.
	Snuff	Any finely cut, ground, or powdered tobacco that is intended to be placed in the mouth.
	Special fuels	Includes clear and dyed diesel fuel and biodiesel, compressed natural gas, kerosene, and liquefied petroleum gas.
	Standard deduction	Under federal income tax law, a specified amount of an individual's income that is not subject to income tax, which is provided in the form of a deduction from adjusted gross income. The amount of this deduction is dependent on the filing status that applies to the individual.

Glossary of common terminology

	Stock and debt approach to value	Substitute for the market approach for valuing properties that do not sell frequently; based on the balance sheet equation that the sum of all the stock and all the debt of a company equals the value of all the assets.
	Stripper well property	A property whose average daily production does not exceed a certain number of barrels of production at various depths for a period of twelve months.
	Supplier	**Alcohol tax:** An alcoholic beverage manufacturer, importer, marketer, or wholesaler selling alcoholic beverages to a wholesaler licensed in this state for purpose of resale. **Fuel tax:** Major oil company.
	Surtax	A tax that is in addition to the regular tax, and is usually imposed as a specified percentage of the regular tax. For North Dakota income tax purposes, a surtax equal to a percentage of ND taxable income is imposed in addition to the regular tax of a corporation that elects to use the water's edge method.
T	Taxable income	The amount to which the tax rates are applied.
	Tax bracket, or income tax bracket	A range of taxable income to which a specific tax rate applies.
	Taxable value	9 percent of assessed value for residential property; 3 percent for certain centrally assessed wind turbines; 1.5 percent for centrally assessed wind turbines constructed prior to January 1, 2011; and 10 percent for all other property.
	Township assessor	Individual certified to assess in townships.
	Trigger price	Thirty-five dollars and fifty cents indexed for inflation each year by applying to the current trigger price, the rate of change in the producer price index for industrial commodities.
	True and full value	The starting point for assessment of all property.
U	UDITPA	An acronym for Uniform Division of Income for Tax Purposes Act, which contains the law provisions governing the allocation and apportionment of the income of multistate taxpayers.
	Unit	Total area of land from the combination of interests in multiple leases or fee interests to operate the reservoir as a single production unit subject to a single operating interest.
	Unitary corporation	A group of corporations which carries on activities, the component parts of which transfer value among themselves through common control, functional integration of activities or economies of scale, and centralized management and policy-making.
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W	Water's edge method	A method of state income tax reporting by a unitary group of corporations in which the income included in the tax base is limited to the income derived, by and large, from the corporations in the unitary group that are incorporated in the U.S.
	WH, withholding tax	An amount subtracted from a payment of income before it is paid out to the recipient. The amount withheld from the income payment is then remitted to the government by the payer of the income. It serves both a revenue and compliance purpose. While it is more commonly associated with an employer's payment of wages to an employee, it is also applied to other types of payments, such as certain gambling proceeds.
	Worldwide combined reporting (WWCR) method	A method of state income tax reporting by a unitary group of corporations in which the income included in the tax base is derived from the unitary group's activities everywhere.
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